



भारत का राजपत्र The Gazette of India

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सं. 45]

नई दिल्ली, शनिवार, नवम्बर 8, 1997/कार्तिक 17, 1919

No. 45]

NEW DELHI, SATURDAY, NOVEMBER 8, 1997/KARTIKA 17, 1919

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (II) PART II—Section 3—Sub-section (II)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांख्यिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कर्मिक, लोक शिक्षा और पेंशन मंत्रालय

(कर्मिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 17 अक्टूबर, 1997

कां.आं. 2822.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस
स्थापना अधिनियम, 1946 (1946 का अधिनियम सं.
25) की धारा 6 के साथ पठित धारा 5 की उपधारा
(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पोलिटिकल
(ए) विभाग, विसपुर अधिसूचना सं. पी०एल०ए० 69/
96/16 तारीख 18 मार्च, 1997 द्वारा असम सरकार
की सहमति से, विधि विरुद्ध क्रियाकलाप (निवारण) अधि-
नियम, 1967 (1967 का अधिनियम सं. 37) की धारा
10/13 और आयुध अधिनियम, 1959 (1959 का अधि-

2755 GI/97-1

(5411)

नियम सं. 54) की धारा 25(1क)/27 के साथ पठित
भारतीय दण्ड संहिता, 1860 (1860 का अधिनियम
सं. 45) की धारा 302/396/326/427 के अधीन
दंडनीय अपराधों और असम के नलबारी जिला में मुकलमुष्ठा
पर 30 दिसम्बर, 95 को नलबारी के, डा० भूमिधर बर्मन,
मंत्री पर आक्रमण के संबंध में पुलिस थाना मुकलमुष्ठा में
रजिस्ट्रीकृत अपराध सं. 165/98 के अन्वेषण के लिए
तथा उन्हीं तथ्यों से उद्भूत होने वाले या वैसे ही संव्यवहार
के अनुक्रम में किए गए अन्य अपराध/अपराधों और ऊपर
वर्णित एक या अधिक अपराधों के संबंध में या उनसे संशक्त
प्रयत्नों, दुष्प्रेरणों और षड्यंत्रों के अन्वेषण के लिए दिल्ली
विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधि-
कारिता का विस्तार संपूर्ण असम राज्य पर करती है।

[सं. 228/26/96-ए०बी०डी०-II]

हरि सिंह, प्रभार सचिव

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSION

(Department of personnel & Training)

ORDER

New Delhi, the 17th October, 1997

S.O. 2822.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of Government of Assam, Political (A) Department Disputes Notification No. PLA-69/96/16, dated 18-03-1997, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Assam for the investigation of the offences punishable under sections 302/396/326/427 of Indian Penal Code, 1860 (Act No. 45 of 1860) read with section 10(13) UA(P) Act, 1967 (Act No. 37 of 1967) and section 25(1-A)/27 of Arms Act, 1959 (Act No. 54 of 1959) registered under crime No. 165/95 at Mukalmua Police Station in connection with the attack on Dr. Bhumidhar Barman, Minister hailing from Nalbari on 30th December, 1995 at Mukalmua in Nalbari District of Assam and attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and other offence/offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/26/96-AVD. II]

HARI SINGH, Under Secy.

नई दिल्ली, 22 अक्टूबर, 1997

कां.आ.० 823.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का एक्ट 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री अनिल कुमार गुप्ता, अधिवक्ता, दिल्ली को मामला संख्या आरसी 10 व 11 (एस)/97/एसआईयू-5/एसआईसी-2/एसपीई/सीबीआई/नई दिल्ली (एफआईआर संख्या 448/97 दिनांक 31-3-97 व एफआईआर संख्या 453/97 दिनांक 1-4-97, थाणा कनाट प्लेस, नई दिल्ली) (कनाट प्लेस गोलीकांड) और उनसे जुड़े अथवा उनके साथ पठित अन्य मामलों के लिए जो अतिरिक्त जिला एवं सत्र न्यायालय, पटियाला हाऊस, नई दिल्ली में संबन्धित हैं, विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/52/97-ए०बी०डी० II]

हरि सिंह, अवसर सचिव

New Delhi, the 22nd October, 1997

S.O. 2823.—In exercise of the powers conferred by the proviso to sub-clause (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Anil Kumar Gupta, Advocate, Delhi as Special Public Prosecutor for conducting Case R. C. 10 &

11(S)/97-SIU. V/SPE/New Delhi (FIR No. 448/97 P. S. Connaught Place, New Delhi) (Connaught Place Shooting Case) and any other matter connected therewith or incidental thereto, in the Addl. District & Sessions Court, Patiala House, New Delhi.

[No. 225/52/97-AVD. III]

HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 16 अक्टूबर, 1997

स्टाम्प

कां.आ.० 2824.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों को प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा उस शुल्क को माफ करती है जो भारतीय पर्यटन वित्त निगम लि०, नई दिल्ली द्वारा 2 जून, 1977 को आवंटित किए गए मात्र सत्तर करोड़ तीस लाख रु० के समग्र मूल्य के एक-एक लाख रुपए मूल्य के 1 से 7130 तक की विशिष्ट संख्या वाले 15% (कराधेय) असुरक्षित विमोच्य टी०एफ०सी०आई० बांडों (एम बी-14 श्रृंखलाएं) के रूप में वर्णित प्रोमिजरी बांडों पर उक्त अधिनियम के तहत प्रभावी है।

[सं० 43/97-स्टाम्प-कां०सं० 14/24/97-एस.टी.]

एस० कुमार, अवसर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

OREDR

New Delhi, the 16th October, 1997

STAMPS

S.O. 2824.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of promissory notes described as 15% (Taxable) Unsecured Redeemable TFCI Bonds (MB-XIV Series) bearing distinctive numbers from 1 to 7130 of rupees one lakh each aggregating to rupees seventy one crores thirty lakhs only allotted on 2nd June, 1997 by Tourism Finance Corporation of India Limited, New Delhi are chargeable under the said Act.

[No. 43/97-STAMPS-F. No. 14/24/97-ST]

S. KUMAR, Under Secy.

(आर्थिक कार्य विभाग)

(Department of Economic Affairs)

(बैंकिंग प्रभाग)

(Banking Division)

नई दिल्ली, 21 अक्टूबर, 1997

New Delhi, the 21st October, 1997

का.आ. 2825:—सरकारी स्थान (अप्राधिकृत अधि-भोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, एतद्वारा, निम्न तालिका के कालम (1) में उल्लिखित अधिकारी, जो सरकार के राजपत्रित अधिकारी के समकक्ष स्तर का अधिकारी है, को उक्त अधिनियम के उद्देश्यों के लिए प्रदत्त शक्तियों का प्रयोग करने और उक्त तालिका के कालम (2) में विनिर्दिष्ट सरकारी परिसरों के संबंध में इस अधिनियम द्वारा या इसके अन्तर्गत सम्पदा अधिकारी को सौंपी गई इयूटियों को पूरा करने के लिए सम्पदा अधिकारी के रूप में नियुक्त करती है।

तालिका

अधिकारी का पदनाम	स्थानीय इकाई/क्षेत्राधिकार
1	2
सहायक महाप्रबंधक (विधि) स्टेट बैंक ऑफ सौराष्ट्र प्रधान कार्यालय, भावनगर।	स्टेट बैंक ऑफ सौराष्ट्र का या उसके द्वारा या उसकी ओर से पट्टे पर लिए गए या अधि- गृहित किए गए भारत में अवस्थित परिसर।

[फा.सं. 15/4/97-बी.ओ.ए.]

के.के. मंगल, अधिवक्ता

TABLE

Designation of the Officer	Local Unit/Jurisdiction
(1)	(2)
Assistant General Manager (Law) State Bank of Saurashtra Head Office, Bhavnagar.	Premises belonging to or taken on lease or requisition by or on behalf of the State Bank of Saurashtra at any place in India.

[No. 15/4/97-BOA]

K. K. MANGAL, Under Secy.

नई दिल्ली, 22 अक्टूबर, 1997

New Delhi, the 22nd October, 1997

का.आ. 2826-राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबन्ध) स्कीम, 1970 के खण्ड 3 के उप-खण्ड (1) के साथ पठित बैंककारी कम्पनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 की उप-धारा 3 के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा श्री के.बी. चक्रवर्ती, मुख्य महाप्रबंधक, भारतीय रिजर्व बैंक, पटना को, श्री एस.एन. परमार के स्थान पर इलाहाबाद बैंक के निदेशक के रूप में नामित करती है।

S.O. 2826.—In exercise of the powers conferred by clause (c) of sub-section 3 of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 read with sub-clause (1) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970 the Central Government hereby nominates Shri K. B. Chakraborty, Chief General Manager, Reserve Bank of India, Patna as a Director of Allahabad Bank vice Shri S. L. Parmar.

[एफ.सं. 9/18/95-बी.ओ.-I]

सुधीर श्रीवास्तव, निदेशक

[F.No 9/18/95-O]

SUDHIR SHRIVASTAVA, Director

नई दिल्ली, 27 अक्टूबर, 1997

(राजस्व विभाग)

का.आ. 2827.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सफाई पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 13 के उपबन्ध, इस अधिसूचना की तारीख से एक वर्ष की अवधि तक के लिये पंजाब नेशनल बैंक पर लागू नहीं होंगे।

[सं. 12/7/97-बीओए(i)]

के.के. मंगल, अवर सचिव

New Delhi, the 27th October, 1997

S.O. 2827.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of Section 13 of the said Act shall not apply for a period of one year from the date of this Notification to the Punjab National Bank.

[F. No. 12/7/97-BOA (i)]

K. K. MANGAL, Under Secy.

नई दिल्ली, 27 अक्टूबर, 1997

का.आ. 2828.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सफाई पर, एतद्वारा घोषणा करती है कि, उक्त अधिनियम की धारा 15(1) के उपबन्ध, इस अधिसूचना की तारीख से पांच वर्षों की अवधि तक के लिये पंजाब नेशनल बैंक पर लागू नहीं होंगे।

[सं. 12/7/97-बी.ओ.ए(ii)]

के.के. मंगल, अवर सचिव

New Delhi, the 27th October, 1997

S.O. 2828.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of Section 15 (I) of the said Act shall not apply for a period of five years from the date of this Notification to the Punjab National Bank.

[F. No. 12/7/97-BOA (ii)]

K. K. MANGAL, Under Secy.

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 23 अक्टूबर, 1997

का. आ. 2829.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 47 के खंड (9) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "इंदिरा गांधी नेशनल सेन्टर फार दी आर्ट्स, नई दिल्ली" को कर निर्धारण वर्ष 1999-2000 से 2000-2001 तक के लिए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है।

[अधिसूचना सं. 10447/फ.सं. 207/1/97-आयकर(न.-II)]

मालथी आर. श्रीधरन, अवर सचिव

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 28th October, 1997

S.O. 2829.—In exercise of the powers conferred by clause (ix) of Section 47 of the I.T. Act, 1961 (43 of 1961), the Central Government hereby notifies "Indira Gandhi National Centre for the Arts", New Delhi for the purpose of the said sub-clause for the assessment years 1999-2000 to 2000-2001.

[Notification No. 10447/F. No. 207/1/97 ITA-II]

MALATHI R. SRIDHARAN, Under Secy.

मानव संसाधन विकास मंत्रालय

(युवा कार्यक्रम और खेल विभाग)

नई दिल्ली, 26 सितम्बर, 1997

का.आ. 2830.—सरकारी स्थान (अप्राधिकृत अधि-भोगियों की बेदखली) अधिनियम, 1971 की धारा-3 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारत सरकार के राजपत्रित अधिकारी के समकक्ष निम्नलिखित सारणी के कॉलम (1) में उल्लिखित अधिकारी को उक्त अधिनियम के प्रयोजनार्थ संपदा अधिकारी नियुक्त करती है जो उक्त सारणी के कॉलम (2) में सद्गुण प्रविष्टियों में निर्दिष्ट सरकारी स्थानों के संबंध में उक्त अधिनियम द्वारा अथवा इसके अंतर्गत संपदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग करेंगे और उन्हें सौंपे गए कार्यों को सम्पन्न करेंगे।

सारणी

1	2
श्री ओ०पी० सेठी, सचिव, युवा कार्यक्रम और खेल विभाग, शास्त्री भवन, नई दिल्ली	केन्द्रीय सरकार के स्वामित्व वाले और देश में अवर खेलों के संवर्धन और विकास के लिए भारतीय खेल प्राधिकरण (भा० खे०प्रा०) के नियंत्रणाधीन रखे गए अन्य संलग्न सुविधाओं के

1

2

साथ नहीं दिल्ली स्थित निम्न-
लिखित परिसर:—

- (1) जवाहरलाल नेहरू स्टेडियम
- (2) इंदिरा गांधी स्टेडियम
- (3) यमुना वेलोड्रम
- (4) राष्ट्रीय स्टेडियम
- (5) तालकटोरा तहणताल परिसर
- (6) डा० कर्णी सिंह शूटिंग रेंज,
तुगलकाबाद
- (7) पर्यटक परिसर, तुगलकाबाद

यह दिनांक 7-6-1995 की अधिसूचना संख्या 6-5/92-
भा०खे०प्रा० का अधिक्रमण करती है।

[मि० संख्या 6-5/92-डेस्क (भा०खे०प्रा०)]
अश्विनी कुमार, डेस्क अधिकारी

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Youth Affairs & Sports)

New Delhi, the 26th September, 1997

S.O. 2830.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the Central Government hereby appoints the officer mentioned

in column (1) of the Table below, being equivalent to Gazetted Officer of the Government of India, to be Estate Officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officers by or under the said Act, in respect of the Public Premises specified in the corresponding entries in Column (2) of the said Table :—

TABLE

1	2
Shri O. P. Sethi, Under Secretary, Department of Youth Affairs & Sports Shastri Bhawan, New Delhi.	The following premises at New Delhi alongwith other facilities attached with them owned by the Central Government and placed under the control of the Sports Authority of India for promotion and development of sports in the country:— (i) Jawaharlal Nehru Stadium. (ii) Indira Gandhi Stadium. (iii) Yamuna Velodrome. (iv) National Stadium. (v) Talkatora Swimming Pool Complex. (vi) Dr. Karni Singh Shooting Ranges, Tuglakabad. (vii) Tourist Complex, Tuglakabad.

This supersedes Notification of even No. 6-5/
92-SAI, dated 7-6-1995.

IF. No. 6-5/92-SAI
ASHWANI KUMAR, Desk Officer

कोयला संश्लेषण

नई दिल्ली, 24 अक्तूबर, 1997

का०आ० 2831.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाय अनुसूची में उल्लिखित भूमि में कोयला अभि-
प्राप्त किए जाने की संभावना है ;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें
इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र
में कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अंतर्गत आने वाले क्षेत्र के रेखांक सं० एस०ई०सी०एल०बी०एस०पी०जी०एम०(पी०एल०जी०)/लैंड/194,
तारीख 27 सितम्बर, 1997 का निरीक्षण साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, राजस्व अनुभाग, सीपत रोड, बिलासपुर-495006
के कार्यालय में या कलकटर, सरगुजा (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता के
कार्यालय में किया जा सकता है।

इस अधिसूचना के अंतर्गत आने वाली भूमि में, हितवद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में
निर्दिष्ट सभी नक्शों, चाटों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर
भारसाधक अधिकारी/बिमागाध्यक्ष (राजस्व) साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर-495006 को भेजेंगे।

अनुसूची
रेहर पूर्व खंड III
विश्रामपुर क्षेत्र
जिला—सरगुजा (मध्य प्रदेश)

(रेखांक सं० : इ सईसीएल/बीएसपी/जीएम (पीएसजी)/लेड/194 तारीख

27 सितम्बर, 1997)

(पूर्वक्षण के लिए अधिसूचित भूमि दर्शाते हुए)

क्रम सं०	ग्राम का नाम	ग्राम सं०	पटवारी हल्का सं०	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियाँ
1.	रामपुर	435	48	अम्बिकापुर	सरगुजा	251.457	भाग
2.	लटोरी	443	48	अम्बिकापुर	सरगुजा	766.423	पूरा
3.	कोरजा	104	46	अम्बिकापुर	सरगुजा	656.336	पूरा
4.	बिनकरा	354	46	अम्बिकापुर	सरगुजा	482.563	पूरा
5.	जमकपुर	176	46	अम्बिकापुर	सरगुजा	130.182	पूरा
6.	सिरकोटगा	493	43	अम्बिकापुर	सरगुजा	21.287	भाग
7.	गणेशपुर	136	46	अम्बिकापुर	सरगुजा	340.408	भाग
8.	गोरवा	141	46	अम्बिकापुर	सरगुजा	11.482	भाग
9.	जोधपुर	199	46	अम्बिकापुर	सरगुजा	130.460	भाग
10.	जयपुर	184	47	अम्बिकापुर	सरगुजा	157.360	भाग
11.	कंचनपुर	109	47	अम्बिकापुर	सरगुजा	68.295	भाग
12.	उमरीला	31	47	अम्बिकापुर	सरगुजा	49.235	भाग
13.	तराजू	229	48	अम्बिकापुर	सरगुजा	201.520	भाग
14.	जमगला	178	48	अम्बिकापुर	सरगुजा	295.160	भाग

योग : 3562.163 हेक्टर (लगता) यव

8802.117 एकड़ (लगता)

सीमा वर्णन :

- क-ख रेखा रेहर नदी के किनारे पर बिन्दु "क" से आरंभ होती है और लटोरी, कोरजा, बिनकरा, जमकपुर, सिरकोटगा ग्रामों की उत्तरी सीमा के साथ-साथ जाती है तथा बिन्दु 'ख' पर मिलती है।
- ख-ग रेखा सिरकोटगा, गणेशपुर, गोरवा, जोधपुर, जयपुर, कंचनपुर, उमरीला ग्रामों से होकर जाती है और बिन्दु "ग" पर मिलती है।
- ग-घ रेखा उमरीला, तराजू, जमगला, रामपुर ग्रामों से होकर जाती है और बिन्दु "घ" पर मिलती है।
- घ-क रेखा रेहर नदी के पूर्वी किनारे के साथ साथ भागत जाती है और आरंभिक बिन्दु "क" पर मिलती है।

[सं. 43015/22/97-एल०एस०डब्ल्यू]

श्रीमती पी०एल० सैनी, अवर सचिव

MINISTRY OF COAL

New Delhi, the 24th October, 1997

S.O. 2831.—Whereas it appears in the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed ;

Now, therefore, in exercise of the power conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan Bearing Number SECL/BSP/GM (PLG)/land/194, dated the 27th September, 1997,

of the area covered by this Notification can be inspected in the Office of the South Eastern Coalfields Limited, Revenue Section, Seepat Road, Bilaspur-495006 or in the Office of the Collector, Surguja (Madhya Pradesh) or in the Office of the Coal Contoller, 1, Council House Street, Calcutta.

All persons interested in the land covered by this Notification may deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-Charge/Head of the Department (Revenue) South Eastern Coalfields Limited, Seepat Road, Bilaspur-495 006 (Madhya Pradesh) within ninety days from the date of publication of this Notification in the Official Gazette.

SCHEDULE
REHAR EAST BLOCK-III
BISRAMPUR AREA
DISTRICT—SURGUJA (MADHYA PRADESH)

(Plan No. : SECL/BSP/GM (PLG)/Land/194

Dated 27th September, 1997)

(showing the land for prospecting)

Serial Number	Name of the village	Village Number	Patwari Halka Number	Tahsil	District	Area in hectares	Remarks
1	2	3	4	5	6	7	8
1.	Rampur	435	48	Ambikapur	Surguja	251.457	Part
2.	Latori	443	48	Ambikapur	Surguja	766.423	Full
3.	Korja	104	46	Ambikapur	Surguja	656.336	Full
4.	Vinkara	354	46	Ambikapur	Surguja	482.563	Full
5.	Janakpur	176	46	Ambikapur	Surguja	130.182	Full
6.	Sirkotaga	493	43	Ambikapur	Surguja	21.287	Part
7.	Ganeshpur	136	46	Ambikapur	Surguja	340.408	Part
8.	Gorta	141	46	Ambikapur	Surguja	11.482	Part
9.	Jodhpur	199	46	Ambikapur	Surguja	130.450	Part
10.	Jaipur	184	47	Ambikapur	Surguja	157.360	Part
11.	Kacharpur	109	47	Ambikapur	Surguja	68.295	Part
12.	Umaraula	31	47	Ambikapur	Surguja	49.235	Part
13.	Tarajoo	229	48	Ambikapur	Surguja	201.520	Part
14.	Jamgala	178	48	Ambikapur	Surguja	295.160	Part

TOTAL : 3562.168 hectares (approximately) OR
8802.117 Acres (Approximately)

Boundary Description :

- A — B** Line starts from point 'A' on the bank of Rehar River and passes along the Northern boundary of villages Latori, Korja, Vinkara, Janakpur, Sirkotaga and meets at point 'B'.
- B — C** Line passes through villages Sirkotaga, Ganeshpur, Gorta, Jodhpur, Jaipur, Kanchanpur, Umaraula and meets at Point 'C'.
- C — D** Line passes through village Umaraula, Tarajoo, Jamgala Rampur and meets at point 'D'.
- D — A** Line passes partly along the Eastern bank of Rehar River and meets at the starting point 'A'.

[No. 43015/22/97-LW]
MRS. P. L. SAINI, Under Secy.

परमाणु ऊर्जा विभाग

आदेश

मुंबई, 20 अक्टूबर, 1997

का०आ०. 2832.—केन्द्रीय सिविल सेवाएं (वर्गीकरण, नियुक्ति तथा अपील), नियम 1965 के नियम 9 के उप नियम (2) नियम 12 के उप नियम (2) के खंड (ख) तथा नियम 24 के उप नियम (1) के अनुपालन में, राष्ट्रपति एतद्वारा

निर्देश देने हैं कि भारत सरकार के परमाणु ऊर्जा विभाग के दिनांक 3 मई, 1993 के कांशा० सं०-1044 के आदेश में आगे निम्नलिखित संशोधन किए जाएंगे, अर्थात् :-

उपर्युक्त आदेश की अनुसूची में—

I. भाग-1—सामान्य केन्द्रीय सेवाएं—वर्ग 'ख' शीर्षक के अंतर्गत,

(i) क्रम सं०-5 तथा उससे संबंधित प्रविष्टियों को निकाल दिया जाएगा ।

(ii) क्रम सं०-9 तथा उससे संबंधित प्रविष्टियों के लिए निम्नलिखित क्रम संख्या तथा प्रविष्टियों को रखा जाएगा ।

1	2	3	4	5	6
'9'	निर्माण सेवा एवं संपदा प्रबंध निदेशालय में पद	निदेशक निर्माण सेवा एवं संपदा प्रबंध निदेशालय	निदेशक निर्माण सेवा एवं संपदा प्रबंध निदेशालय	सभी	सचिव, परमाणु ऊर्जा विभाग

2. 'भाग-II—सामान्य केन्द्रीय सेवाएं—वर्ग 'ग' शीर्षक के अंतर्गत

(i) क्रम सं०-5 तथा उससे संबंधित प्रविष्टियों को निकाल दिया जाएगा ।

(ii) क्रम सं०-9 तथा उससे संबंधित प्रविष्टियों के लिए निम्नलिखित क्रम संख्या तथा प्रविष्टियों को रखा जाएगा ।

1	2	3	4	5	6
'9'	निर्माण सेवा एवं संपदा प्रबंध निदेशालय में पद	मुख्य प्रकाशन अधिकारी निर्माण, सेवा एवं संपदा प्रबंध निदेशालय	मुख्य प्रशा० अधिक० निर्माण, सेवा एवं संपदा प्रबंध निदेशालय	सभी	निदेशक, निर्माण, सेवा एवं संपदा प्रबंध निदेशालय

3. भाग-3—सामान्य केन्द्रीय सेवा वर्ग 'घ' शीर्षक के अंतर्गत

(1) क्रम सं० 5 तथा उससे संबंधित प्रविष्टियों को निकाल दिया जाएगा ।

(2) क्रम सं०-9 तथा उससे संबंधित प्रविष्टियों के लिए निम्नलिखित क्रम संख्या तथा प्रविष्टियों को रखा जाएगा अर्थात् :-

1	2	3	4	5	6
'9'	निर्माण, सेवा एवं संपदा प्रबंध निदेशालय में पद	प्रशा० अधिक०-iii निर्माण सेवा एवं संपदा प्रबंध निदेशालय	प्रशा० अधिक०-iii निर्माण सेवा एवं संपदा प्रबंध निदेशालय	सभी	मुख्य प्रशा० अधिक० निर्माण सेवा एवं संपदा प्रबंध निदेशालय

[सं. 1/6(2)/96-सतर्कता/791]

पी० वेणुगोपालन, उप सचिव

टिप्पण: मूल आदेश भारत के राजपत्र में दिनांक 3-5-93 के कांशा० सं०-1044 के अनुसार प्रकाशित किया गया तथा तदुपरांत संशोधित किया गया ।

1. आदेश सं० 1/6(1)/93-सतर्कता/351 दिनांक 14-12-93

2. आदेश सं० 1/6(1)/94-सतर्कता/395 दिनांक 24-11-94

3. आदेश सं० 1/6(1)/95-सतर्कता/276 दिनांक 16-4-97

DEPARTMENT OF ATOMIC ENERGY

ORDER

Mumbai, the 20th October, 1997

S.O. 2832.—In pursuance of sub-rule (2) of Rule 9, clause (b) of sub-rule (2) of Rule 12 and sub-rule (1) of rule 24 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the President hereby directs that the following further amendments shall be made in the Order of the Government of India in the Department of Atomic Energy, No. S.O. 1044, dated the 3rd May, 1993, namely :—
In the Schedule to the aforesaid Order—

1. Under heading "Part I — General Central Services, Group 'B'",—

(i) serial number 5 and the entries relating thereto shall be omitted;

(ii) for serial number 9 and the entries relating thereto, the following serial number and entries shall be substituted, namely :—

1	2	3	4	5	6
"9.	Posts in the Directorate of Construction, Services & Estate Management.	Director, Directorate of Construction, Services & Estate Management.	Director, Directorate of Construction, Services & Estate Management.	All	Secretary, Department of Atomic Energy";

2. Under heading "Part-II — General Central Service, Group 'C' ",—

(i) serial number 5 and the entries relating thereto shall be omitted;

(ii) for serial number 9 and the entries relating thereto, the following serial number and entries shall be substituted namely :—

1	2	3	4	5	6
9.	Posts in the Directorate of Construction, Services and Estate Management.	Chief Administrative Officer, Directorate of Construction, Services and Estate Management.	Chief Administrative Officer, Directorate of Construction, Services and Estate Management.	All	Director, Directorate of Construction, Services and Estate Management."

3. Under heading "Part-III — General Central Service Group 'D' ",—

(i) serial number 5 and the entries relating thereto shall be omitted;

(ii) for serial number 9 and the entries relating thereto the following serial number and entries shall be substituted, namely :—

1	2	3	4	5	6
"9.	Posts in the Directorate of Construction, Services and Estate Management.	Administrative Officer-III, Directorate of Construction, Services and Estate Management.	Administrative Officer-III, Directorate of Construction, Services and Estate Management.	All	Chief Administrative Officer, Directorate of Construction, Services and Estate Management."

[No. 1/6(2)/96-Vig./791]

P. VENUGOPALAN, Deputy Secy.

NOTE : The Principal Order was issued in the Gazette of India vide S.O. No. 1044 dated 3-5-93 and subsequently amended by :—

1. Order No. 1/6(1)/93-Vig./351 dated 14-12-93.
2. Order No. 1/6(1)/94-Vig./395 dated 24-11-94.
3. Order No. 1/6(1)/95-Vig./276 dated 16-4-97.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

आदेश

नई दिल्ली, 28 अगस्त, 1997

का. आ. 2833 :—वैंडरबिल्ट यूनिवर्सिटी स्कूल आफ मेडिसीन, संयुक्त राज्य अमरीका द्वारा प्रवृत्त एम बी की चिकित्सीय अर्हता भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजनार्थ मान्यताप्राप्त चिकित्सीय अर्हता है।

और उक्त अर्हताधारक डा. रिबक ए. नायलर पूर्त कार्य के लिए बेंगलूर बैप्टिस्ट अस्पताल बेंगलूर से इस समय संबद्ध है ;

अतः उक्त अधिनियम की धारा 14 (ग) की उप-धारा (1) में किए गए प्रावधान के खण्ड (ग) के अनुसरण में केन्द्रीय सरकार अब एतद्द्वारा :—

(1) 23 अक्टूबर, 1998 को समाप्त हो रही अवधि

या

(2) उस अवधि जिसके दौरान डा. रिबक ए. नायलर बेंगलूर बैप्टिस्ट अस्पताल से संबद्ध रहे, जो भी कम हो, को जिस तक उक्त डाक्टर

का चिकित्सा व्यवसाय सीमित रहेगा, उस अवधि के रूप में विनिर्दिष्ट करता है।

[सं. बी. 11016/10/93—एमई (यूजी)]

एस. के. मिश्रा, डेस्क अधिकारी

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

ORDER

New Delhi, the 28th August, 1997

S.O. 2833.—Whereas medical qualifications M.D. granted by Vanderbilt University School of Medicine, U.S.A. is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956);

And whereas Dr. Rebakah A. Naylor who possesses the said qualification is at present attached to Bangalore Baptist Hospital, Bangalore for charitable work.

Now, therefore, in pursuance of clause (c) of the said provision to sub-section (1) of section 14 of the said Act, the Central Government hereby specifies :—

(1) the period ending 23rd October, 1998 or

(2) the period during which Dr. Rebakah A. Naylor is attached to Bangalore Baptist Hospital, whichever is shorter, as the period to which the medical practice by the said doctor shall be limited.

[No. V. 11016/10/93-ME(UG)]

S. K. MISHRA, Desk Officer

शहरी कार्य और रोजगार मंत्रालय

(शहरी विकास विभाग)

(दिल्ली प्रभाग)

नई दिल्ली, 16 अक्टूबर, 1997

का.प्रा. 2834—यतः निम्नांकित क्षेत्रों के बारे में कुछ संशोधन, जिन्हें केन्द्रीय सरकार अधीवर्णित क्षेत्रों के बारे में दिल्ली बृहद योजना/क्षेत्रीय विकास योजना में प्रस्तावित करती है तथा जो दिल्ली विकास अधिनियम, 1956 (1957 का 61) की धारा 44 के प्रावधानों के अनुसार दिनांक 25-1-97 के नोटिस संख्या एफ. 20(11) 95-एम पी द्वारा प्रकाशित किये गये थे जिसमें उक्त अधिनियम की धारा 11-ए की उपधारा (3) में अपेक्षित आपत्तियों/सुझाव, उक्त नोटिस की तारीख के 30 दिनों की अवधि में आमंत्रित किये गये थे।

और यतः प्रस्तावित संशोधन के बारे में जनता से कोई आपत्तियाँ और सुझाव प्राप्त नहीं हुए हैं और यतः केन्द्र सरकार ने मामले के सभी पहलुओं पर ध्यानपूर्वक विचार करने के बाद बृहद योजना में संशोधन करने का निर्णय लिया है।

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 11-ए की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत के राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से दिल्ली की उक्त बृहद योजना में एलबद्धा इस शर्त पर कि दिल्ली बृहद योजना-2001 में निर्धारित मानदंडों के अनुसार विषय स्वास्थ्य संगठन भवन परिसर में ही पर्याप्त पार्किंग स्थल उपलब्ध कराया जायेगा, निम्नलिखित संशोधन करती है।

संशोधन :—

दिनांक 1-8-90 के भारत के राजपत्र के भाग-II खण्ड 3 उप-खण्ड (ii) के पृष्ठ 164 (आर एच एस) पर दिल्ली बृहद योजना-2001 में "सार्वजनिक" शीर्षक के अन्तर्गत निम्नलिखित प्रविष्टि की जाये।

"जोन 'डी' (नई दिल्ली) में आने वाले विश्व स्वास्थ्य संगठन के भवन, आई.पी. एस्टेट के लिये फर्मी क्षेत्र अनुपात एक बार छूट देते हुए '100' से बढ़ाकर '150' किया जाता है।"

[सं. के-20013/1/95-डीडीआईडी]

के.के. गुप्ता, अव्वर सचिव

MINISTRY OF URBAN AFFAIRS AND
EMPLOYMENT

(Department of Urban Development)

(Delhi Division)

New Delhi, the 16th October, 1997

S.O. 2834.—Whereas certain modifications which the Central Government proposed to make in the Master Plan for Delhi Zonal Development Plan regarding the area mentioned hereunder well published with Notice No. F. 20(11)95-MP dated 25-1-97 in accordance with the provisions of Section 44 of the Delhi Development Act, 1956 (61 of 1957), inviting objections/suggestions as required by sub-section (3) of Section 11-A of the said Act, within thirty days from the date of the said notice.

2. Whereas no objections/suggestions were received with regard to the proposed modification and whereas the Central Government have, after carefully considering all aspects of the matter, decided to modify the Master Plan.

3. Now, therefore, in exercise of the powers conferred by sub-section (3) of Section 11-A of the said Act, the Central Government hereby makes the following modifications in the said Master Plan for Delhi with effect from the date of publication of this notification in the Gazette of India subject to the condition that adequate parking space will be provided within the WHO Building premises as per the norms laid down in MPD-2001.

MODIFICATIONS

The following entry may be inserted in the MPD-2001 at page 164 (RHS) of the Gazette of India Part-II, Section 3 sub-section (ii), dated 1-8-90 under the Head 'Public and Semi-Public Facilities' after other controls (ii) "For the Building of World Health Organisation, I.P. Estate failing in Zone 'D' (New Delhi) maximum FAR is increased from '100' to '150' as one one time exception.

[F. No. K-20013/1/95-DDIB]

K. K. GUPTA, Under Secy.

नागर विमानन और पर्यटन मंत्रालय

(नागर विमानन विभाग)

नई दिल्ली, 23 अक्टूबर, 1997

का.आ. 2835.—केन्द्र सरकार, भारतीय विमानपत्तन प्राधिकरण अधिनियम, 1994 (1994 का 55) की धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा, भारतीय विमानपत्तन प्राधिकरण, गुवाहाटी हवाई अड्डा, गुवाहाटी के कार्यपालक निदेशक (पूर्वोत्तर क्षेत्र), श्री कन्नैया रामलिंगम को उनके कार्यभार ग्रहण करने की तारीख से पांच वर्ष की अवधि के लिये भारतीय विमानपत्तन प्राधिकरण में अनुसूची "ख" में 12000-14000 रु. (संशोधित) के वेतनमान में सदस्य (योजना) के रूप में नियुक्त करती है।

[सं. ए वी.-11015/007/95-वीबी]

पी.एस. राधाकृष्ण, अवर सचिव

MINISTRY OF CIVIL AVIATION AND TOURISM

(Department of Civil Aviation)

New Delhi, the 23rd October, 1997

S.O. 2835.—In exercise of the powers conferred by Section 3 of the Airports Authority of India Act, 1994 (No. 55 of 1994), the Central Government hereby appoints Shri Kanniah Ramalingam, Executive Director (North Eastern Region) Airports Authority of India, Guwahati Airports Guwahati as Member (Planning) in the Air Ports Authority of India in Schedule 'B' scale of pay of Rs. 12,000—14,000 (Revised) for a period of five years from the date of his taking over the charge of the post.

[F. No. AV-11015/007/95-VB]

P. S. RADHAKRISHNA, Under Secy.

जल-भूतल परिवहन मंत्रालय

(नौवहन पक्ष)

नई दिल्ली, 17 अक्टूबर, 1997

परिवहन अधिनियम, 1958 (1958 का 44) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा भारत सरकार, जल-भूतल परिवहन मंत्रालय (नौवहन पक्ष) की दिनांक 11 अप्रैल, 1997 की अधिसूचना सं० एस एस-18011/2/96-एस एल में निम्नलिखित संशोधन करती है:

उक्त अधिसूचना में क्रम सं० 21 पर निम्नलिखित प्रविष्टियां प्रतिस्थापित की जाएं, अर्थात्:

"21. श्री भुवनेश्वर कालिता, —वही—
पूर्व संसद सदस्य (राज्य सभा),
ए एस एच बी हाउसिंग कालोनी,
हेंगराबरी,
गुवाहाटी-7681006"

[फा०सं० एस एस-18011/2/96-एस एल]

आर०के० शर्मा, अवर सचिव

MINISTRY OF SURFACE TRANSPORT

(Shipping Wing)

New Delhi, the 17th October, 1997

S.O. 2836.—In exercise of the powers conferred by Section 4 of the Merchant Shipping Act, 1958 (44 of 1958), read with Rule 3 of the National Shipping Board Rules, 1960, the Government hereby makes the following amendments in the Government of India, Ministry of Surface Transport (Shipping Wing)'s Notification No. SS-18011/2/96-SL, dated 11th April, 1997 :—

In the said Notification, against serial No. 21, the following entries shall be substituted, namely :—

"21. Shri Bhubaneswar Kalita —do—
Former Member of Parliament
(R. S.).
ASHB Housing Colony,
Hengrabari,
Guwahati-7681006."

[F. No. SS-18011/2/96-SL]

R. K. SHARMA, Under Secy.

का०आ० 2836.—सरकार, राष्ट्रीय नौवहन बोर्ड नियमावली, 1960 के नियम 4 के साथ पठित वाणिज्यिक पोत

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 27 अक्तूबर, 1997

(1)	(2)	(3)
	632	0.131
	640/1	0.003
	640/2	0.002
	642/1	P 0.243
	642/2	
	645	0.222
	713	0.182
	770	0.228
	771	0.393
	772	0.251
	781	0.092
	782	0.255
	783	0.011
	784	0.032
	785	0.095
	787	0.243
	799	0.063
	800	0.245
	808	0.231
	809	0.070
	811	0.425
	813	0.053
	814	0.022
	819	0.208
	824	0.252
	828	0.139
	829	0.022
	830	0.005
	831	0.033
	832	0.142
	833	0.006
	835	0.040
	836	0.055
	864	0.335
	866	0.182
	868	0.176
	869	0.026
	878	0.245
	880	0.202
	881	0.191
	882	0.193
	893	0.379
	971	0.272
	972	0.457
	979	0.042
	1278	0.399
	1281	0.238
	1282	0.009
	1300	0.069
	1302	0.046
	1305	0.003
	1306	0.059

का. आ. 2837.—केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन तारीख 7/6/97 के भारत के राजपत्र में प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1489, तारीख 30 मई, 1997 द्वारा पेट्रोलियम के परिवहन के लिए पाइप लाइन निष्ठाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्रित अधिसूचना की प्रतियाँ जनता को तारीख 16 जून, 1997 को उपलब्ध करा दी गई थी ;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ;

और केन्द्रीय सरकार का, उक्त रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित किया जाना चाहिए ;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार अर्जित किया जाता है ;

यह और कि केन्द्रीय सरकार, उक्त धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगनो से मुक्त होकर भारत ओमान रिफाईनरीज लिमिटेड में निहित होगा ।

अनुसूची

तहसील : बदनावर	जिला : धार	राज्य : मध्य प्रदेश
ग्राम का नाम	सर्वे संख्यांक	क्षेत्र
(1)	(2)	(3)
दोश्या	262/ P	0.386
	263	0.229
	264	0.013
	612	0.020
	613	0.348
	614	0.437
	630	0.026
	631	0.098

(1)	(2)	(3)	(1)	(2)	(3)
	1307	0.147		17/1	0.300
	1308	0.046		18	
	1309	0.005		20	0.102
	1311	0.188		23	0.101
	1312	0.010		24	0.221
	1319 / P	0.001		25	0.092
	1320	0.032		26	0.010
	1321	0.037		28/1	0.055
	1322	0.018		31 / P	0.284
	1323	0.231		33	0.003
	1324	0.341		161	0.028
	1325	0.014	सम्पत्ति	30	0.057
	1326	0.027		31/1	P 0.015
	1327/2	0.012		31/2	
	1328	0.045		32/1	P 0.001
	1329	0.153		32/2	
	1330	0.054		33	0.039
	1333	0.056		34/1	P 0.058
	1334	0.144		34/2	
	1338	0.200		35	0.042
	1339	0.144		39	0.310
	1340	0.094		49	0.005
	1342	0.038		51	0.209
	1343	0.177		52	0.176
	1345	0.171		53	0.001
	1620/2	0.281		58	0.165
	1633	0.062		59	0.048
	1635/2	0.188		60	0.089
सम्पत्ति	3	0.021		63	0.086
	4	0.078		66	0.035
	5	0.015		67/P	0.514
	16	0.161		600	0.073
	17/1	P 0.002		601/P	0.140
	17/2			602/P	0.145
	18/1	P 0.028		603	0.238
	18/2			604	0.183
	321	0.062		605	0.053
	323/2	P 0.058		608/P	0.684
	323/3			661/2712	0.193
	324	0.116		661/2713	0.378
	325/1	P 0.164		662	0.035
	325/2			667	0.033
टीसीपाडा	4 / P	0.398		668	0.106
	5	0.139		669	0.252
	6	0.280		671/2713	0.044
	7	0.390		672	0.001
	10	0.082		673	0.068
	11	0.043		674	0.109
	13	0.036		675	0.080
	14/1	0.193		676	0.280
	14/2	0.336		709/P	0.200
	15			710	0.143

(1)	(2)	(3)	(1)	(2)	(3)
	711	0.191		1108/1	
	728	0.299		1108/2	P 0.243
	730	0.234		1108/3	
	746/1	P 0.028		1111	0.032
	746/2			1112	0.040
	749	0.065		1113	0.191
	750/1	P 0.099		1114	0.085
	750/2			1115	0.130
	754/1	P 0.338		1183/1	P 0.145
	754/2			1183/2	
	769	0.482		1184	0.167
	780	0.298		1185	0.044
	781	0.039		1192	0.189
	793	0.208		1193/1	P 0.025
	961	0.174		1193/2	
	963	0.121		1194/1	P 0.137
	964	0.080		1194/2	
	965	0.014		1198	0.068
	973/1	P 0.194		1205	0.214
	973/2			1206	0.134
	974	0.039		1207/2	0.070
	977	0.001		3015	0.032
	979	0.208		3016/1	
	980	0.218		3016/2	P 0.168
	985	0.065		3016/3	
	986	0.019		3020/1	P 0.173
	987	0.058		3020/2	
	992	0.059		3035	0.191
	994/1	P 0.265		3036	0.165
	994/2			3037/1/1	
	1040	0.007		3037/1/2	P 0.548
	1036	P 0.292		3037/2	
	1041/2			3038	0.073
	1046	0.170		3039	0.182
	1047	0.009		3072	0.060
	1056/1	P 0.019		3131	0.071
	1056/2			3132	0.127
	1058P	0.018		3133	0.201
	1059	0.382		3150	0.292
	1060	0.006		3152	0.241
	1061/1	P 0.111		3160	0.001
	1061/2			3162	0.081
	1062	0.229		3163	0.001
	1063/1	P 0.362		3164	0.171
	1063/2			3165/1	
	1148	0.449		3165/2	P 0.026
	1149	0.078		3165/3	
	1150	0.174		3166	0.128
सिलगारा	1086/1	P 0.236		3167	0.108
	1086/2			3168	0.175
	1105	0.013		3169/1	P 0.138
	1106	0.040		3169/2	
				3180	0.180

(1)	(2)	(3)	(1)	(2)	(3)
	3182	0.002		902	0.010
	3188	0.124		903	0.260
	3189/1			904	0.002
	3189/2	P 0.579		1018	0.173
	3189/3			1025/2	0.614
	3190	0.035		1025/3	
	3198	0.128		1032	0.215
मूलस्थान	260/1			1033/1	P 0.295
	260/2			1033/2	
	260/3			1035/1	P 0.139
	260/4	P 0.577		1035/2	
	260/5			1059/P	0.712
	260/6			1060	0.071
	260/7			1278/1	0.031
	260/8			1287/2	0.917
	281	0.384		1287/4	0.108
	283/1			2343	0.070
	283/2			2344	0.033
	283/3/1			2345	0.132
	283/3/2	P 0.604		2346	0.345
	283/4			2347	0.006
	283/5			2352	0.128
	283/6			2353/1	P 0.160
	284	0.795		2353/2	
	288/P	0.028		2457	0.032
	289/1			2459	0.009
	289/2			2460	0.179
	289/3			2461	0.133
	289/4/1			2462	0.102
	289/4/2	P 0.261		2463	0.053
	289/4/3			2465	0.036
	289/5			2466	0.068
	289/6			2467	0.132
	295	0.107		2468	0.066
	296/P	0.339		2471	0.255
	298	0.064		2472	0.109
	299	0.120		2473	0.043
	300	0.013		2474	0.002
	302	0.022		2475	0.036
	318/P	0.262		2476	0.050
	559/1	0.124		2477	0.074
	559/2	0.623		2479	0.052
	560/1	P 0.106		2483/1	P 0.184
	560/2			2483/2	
	562	0.281		2490	0.014
	569/P	0.185		2591	0.059
	894/1			2593	0.067
	894/2	P 0.053		2594	0.164
	894/3			2595	0.065
	897	0.003		2596/1/1	P 0.736
	898	0.117		2596/1/2	
	899	0.174		2598	0.237

(1)	(2)	(3)	(1)	(2)	(3)
	2599	0.036		924	0.237
	2609	0.348		929	0.405
	2610	0.041		930/1	P 0.104
	2611	0.052		930/2	
	2612	0.120		930/3	
	2614	0.549		933	0.276
	2616	0.035		985/1/1	P 0.345
	2618	0.300		985/1/2	
	2619	0.474		985/2/1	
	2621	0.086		985/2/2	
धमाणा	2	0.140		991/1	P 0.133
	3/1	P 0.351		991/2	
	3/2			992	0.188
	4	0.230		993	0.109
	14/1	P 0.434		994	0.005
	14/2			995	0.311
	42	0.120		996	0.216
काडीपदीवा	43	0.304		1004	0.200
	468	0.060		1006	0.125
	469	0.289		1007	0.230
	470	0.035		1011	0.292
	475	0.116		1012	0.189
	476	0.199		1013/P	0.416
	478	1.748		1016	0.366
	553/1	P 0.361		1019	0.013
	553/2			1021/1	P 0.410
	554	0.311	कारोवा	1021/2	P
	586	0.165		19/1	
	587	0.446		19/2	0.232
	591/1	P 0.007		23	0.116
	591/2			24	0.137
	592/1	P 0.350		25	0.301
	592/2			26	0.014
	655/1	P 0.410		29/1	P 0.106
	655/2			29/2	
	668/1	P 0.047		29/3	
	668/2			30	0.427
	669	0.710		31	0.126
	672	0.017		33/1	P 0.175
	673	0.010		33/2	
	674/1	P 0.577		34	0.086
	674/2			39	0.247
	675	0.516		42	0.145
	679	0.139		43/1	P 0.132
	680	0.310		43/2	
	681/1	0.140		44	0.074
	681/2	0.245		45	0.275
	682	0.003		55	0.269
	689/1	P 0.197		64/1	P 0.063
	689/2			64/2	
	922	0.037		83	0.297
	923	0.177		86	0.002

[सं.: आर 31015 / 14 / 97 ओआर II]

के. सी. फटोच, अवर सचीव

Ministry of Petroleum and Natural Gas

New Delhi, the 27th October, 1997

S.O. 2837.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas Gas No. S.O. 1489 dated 30th May, 1997, issued under sub section (1) of section 3 of petroleum and minerals Pipelines (Acquisition of Right of User in Lands) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated 07 / 06 / 97 , the Central Government declared its intention to acquire the right of user in the lands specified in Schedule appended to that notification for the purpose of laying pipeline for the transport of Petroleum .

And whereas, the copies of the said Gazette notification were made available to the public on 16th June 1997;

And whereas the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government.

And whereas, the Central Government after considering the said report is satisfied that the right of user in the lands specified in the Schedule appended to this notification should be acquired.

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in lands specified in the Schedule appended to this notification are hereby acquired;

And further in exercise of the powers conferred by sub-section (4) of the said section, the Central Government hereby directs that the right of user in the said lands shall, instead of vesting in the Central Government, vest free from all encumbrances, in Bharat Oman Refineries Ltd.

Schedule

Tehsil : Badnavar Dist : Dhar State : Madhya Pradesh

Name of village	Survey No.	Area Hectare and are
(1)	(2)	(3)
Dhotriya	262/ P	0.386
	263	0.229

(1)	(2)	(3)
	264	0.013
	612	0.020
	613	0.348
	614	0.437
	630	0.026
	631	0.098
	632	0.131
	640/1	0.003
	640/2	0.002
	642/1) P 0.243
	642/2	
	645	0.222
	713	0.182
	770	0.228
	771	0.393
	772	0.251
	781	0.092
	782	0.255
	783	0.011
	784	0.032
	785	0.095
	787	0.243
	799	0.063
	800	0.245
	808	0.231
	809	0.070
	811	0.425
	813	0.053
	814	0.022
	819	0.208
	824	0.252
	828	0.139
	829	0.022
	830	0.005
	831	0.033
	832	0.142
	833	0.006
	835	0.040
	836	0.055
	864	0.335
	866	0.182
	868	0.176
	869	0.026
	878	0.245
	880	0.202
	881	0.191
	882	0.193
	893	0.379
	971	0.272
	972	0.457
	979	0.042
	1278	0.399

(1)	(2)	(3)	(1)	(2)	(3)
	1281	0.238		10	0.082
	1282	0.009		11	0.043
	1300	0.069		13	0.036
	1302	0.046		14/1	0.193
	1305	0.003		14/2	0.336
	1306	0.059		15	
	1307	0.147		17/1	0.300
	1308	0.046		18	
	1309	0.005		20	0.102
	1311	0.188		23	0.101
	1312	0.010		24	0.221
	1319 / P	0.001		25	0.092
	1320	0.032		26	0.010
	1321	0.037		28/1	0.055
	1322	0.018		31 / P	0.284
	1323	0.231		33	0.003
	1324	0.341		161	0.028
	1325	0.014	Sandla	30	0.057
	1326	0.027		31/1	P 0.015
	1327/2	0.012		31/2	
	1328	0.045		32/1	P 0.001
	1329	0.153		32/2	
	1330	0.054		33	0.039
	1333	0.056		34/1	P 0.058
	1334	0.144		34/2	
	1338	0.200		35	0.042
	1339	0.144		39	0.310
	1340	0.094		49	0.005
	1342	0.038		51	0.209
	1343	0.177		52	0.176
	1345	0.171		53	0.001
	1620/2	0.281		58	0.165
	1633	0.062		59	0.048
	1635/2	0.188		60	0.089
Bakhatpura	3	0.021		63	0.086
	4	0.078		66	0.035
	5	0.015		67/P	0.514
	16	0.161		600	0.073
	17/1	P 0.002		601/P	0.140
	17/2			602/P	0.145
	18/1	P 0.028		603	0.238
	18/2			604	0.183
	321	0.062		605	0.053
	323/2	P 0.058		608/P	0.684
	323/3			661/2712	0.193
	324	0.116		661/2713	0.378
	325/1	P 0.164		662	0.035
	325/2			667	0.033
Titipada	4 / P	0.398		668	0.106
	5	0.139		669	0.252
	6	0.280		671/2713	0.044
	7	0.390		672	0.001

(1)	(2)	(3)	(1)	(2)	(3)
	673	0.068		1149	0 078
	674	0.109		1150	0 174
	675	0.080	Tilgara	1086/1	} P 0 236
	676	0.280		1086/2	
	709/P	0.200		1105	0 013
	710	0.143		1106	0 040
	711	0.191		1108/1	} P 0 243
	728	0.299		1108/2	
	730	0.234		1108/3	
	746/1	} P 0.028		1111	0 032
	746/2			1112	0 040
	749	0.065		1113	0 191
	750/1	} P 0.099		1114	0 085
	750/2			1115	0 130
	754/1	} P 0.338		1183/1	} P 0 145
	754/2			1183/2	
	769	0.482		1184	0 167
	780	0.298		1185	0 044
	781	0.039		1192	0 189
	793	0.208		1193/1	} P 0 025
	961	0.174		1193/2	
	963	0.121		1194/1	} P 0 137
	964	0.080		1194/2	
	965	0.014		1198	0 068
	973/1	} P 0.194		1205	0 214
	973/2			1206	0 134
	974	0.039		1207/2	0 070
	977	0.001		3015	0 032
	979	0.208		3016/1	} P 0 168
	980	0.218		3016/2	
	985	0.065		3016/3	
	986	0.019		3020/1	} P 0 173
	987	0.058		3020/2	
	992	0.059		3035	0 191
	994/1	} P 0.265		3036	0 165
	994/2			3037/1/1	} P 0 548
	1040	0.007		3037/1/2	
	1036	} P 0.292		3037/2	
	1041/2			3038	0 073
	1046	0.170		3039	0 182
	1047	0.009		3072	0 060
	1056/1	} P 0.019		3131	0 071
	1056/2			3132	0 127
	1058P	0.018		3133	0 201
	1059	0.382		3150	0 292
	1060	0.006		3152	0 241
	1061/1	} P 0.111		3160	0 001
	1061/2			3162	0 081
	1062	0.229		3163	0 001
	1063/1	} P 0.362		3164	0 171
	1063/2			3165/1	} P 0 026
	1148	0.449		3165/2	
				3165/3	

(1)	(2)	(3)	(1)	(2)	(3)
	3166	0.128		894/1	
	3167	0.108		894/2	P 0.053
	3168	0.175		894/3	
	3169/1	P 0.138		897	0.003
	3169/2			898	0.117
	3180	0.180		899	0.174
	3182	0.002		902	0.010
	3188	0.124		903	0.260
	3189/1			904	0.002
	3189/2	P 0.579		1018	0.173
	3189/3			1025/2	0.614
	3190	0.035		1025/3	
	3198	0.128		1032	0.215
Multhan	260/1			1033/1	P 0.295
	260/2			1033/2	
	260/3			1035/1	P 0.139
	260/4	P 0.577		1035/2	
	260/5			1059/P	0.712
	260/6			1060	0.071
	260/7			1278/1	0.031
	260/8			1287/2	0.917
	281	0.384		1287/4	0.108
	283/1			2343	0.070
	283/2			2344	0.033
	283/3/1			2345	0.132
	283/3/2	P 0.604		2346	0.345
	283/4			2347	0.006
	283/5			2352	0.128
	283/6			2353/1	P 0.160
	284	0.795		2353/2	
	288/P	0.028		2457	0.032
	289/1			2459	0.009
	289/2			2460	0.179
	289/3			2461	0.133
	289/4/1			2462	0.102
	289/4/2	P 0.261		2463	0.053
	289/4/3			2465	0.036
	289/5			2466	0.068
	289/6			2467	0.132
	295	0.107		2468	0.066
	296/P	0.339		2471	0.255
	298	0.064		2472	0.109
	299	0.120		2473	0.043
	300	0.013		2474	0.002
	302	0.022		2475	0.036
	318/P	0.262		2476	0.050
	559/1	0.124		2477	0.074
	559/2	0.623		2479	0.052
	560/1	P 0.106		2483/1	P 0.184
	560/2			2483/2	
	562	0.281		2490	0.014
	569/P	0.185		2591	0.059

(1)	(2)	(3)	(1)	(2)	(3)	
	2593	0.067		689/1	P 0.197	
	2594	0.164		689/2		
	2595	0.065		922	0.037	
	2596/1/1	P 0.736		923	0.177	
	2596/1/2			924	0.237	
	2598	0.237		929	0.405	
	2599	0.036		930/1	P 0.104	
	2609	0.348		930/2		
	2610	0.041		930/3		
	2611	0.052		933	0.276	
	2612	0.120		985/1/1	P 0.345	
	2614	0.549		985/1/2		
	2616	0.035		985/2/1		
	2618	0.300		985/2/2	P 0.133	
	2619	0.474		991/1		
	2621	0.086		991/2		
Dhamana	2	0.140		992	0.188	
	3/1	P 0.351		993	0.109	
	3/2			994	0.005	
	4	0.230		995	0.311	
	14/1	P 0.434		996	0.216	
14/2			1004	0.200		
	42	0.120		1006	0.125	
	43	0.304		1007	0.230	
Khacchi Baroda	468	0.060		1011	0.292	
	469	0.289		1012	0.189	
	470	0.035		1013/P	0.416	
	475	0.116		1016	0.366	
	476	0.199		1019	0.013	
	478	1.748	Karoda	1021/1	P 0.410	
	553/1	P 0.361		1021/2		
	553/2			19/1	P	
	554	0.311		19/2		
	586	0.165		23	0.232	
	587	0.446		24	0.116	
	591/1	P 0.007		25	0.137	
	591/2			26	0.301	
	592/1	P 0.350		29/1	0.014	
	592/2			29/2	P 0.106	
655/1	P 0.410			29/3		
655/2				30	0.427	
668/1	P 0.047			31	0.126	
668/2				33/1	P 0.175	
669	0.710	33/2				
672	0.017	34		0.086		
673	0.010	39		0.247		
674/1	P 0.577			42	0.145	
674/2				43/1	P 0.132	
675	0.516	43/2				
679	0.139	44		0.074		
680	0.310	45		0.275		
681/1	0.140	55		0.269		
681/2	0.245	64/1		P 0.063		
682	0.003	64/2				
		83	0.297			
		86	0.002			

[No. R 31015/14/97- OR. II]

[No.: R 31015/14/97- OR. II]

K. C. Katoch, Under Secy.

नई दिल्ली, 28 अक्तूबर, 1997

का. आ. 2838.—केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962(1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1673, तारीख 9 जून 1997 द्वारा पेट्रोलियम के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 5 जुलाई 1997 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए ;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त अधिनियम धारा 6 की उप धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाए सभी विद्वगंमों से रहित भारत ओमान रिफाईनरीज़ लिमिटेड में निहित होगा।

अनुसूची

तालुका: वांकाणेर	जिला: राजकोट	राज्य: गुजरात		
गांव का नाम	सर्वेक्षण सं./ खंड सं.	क्षेत्र हेक्टर आरे	सेन्टीआरे	
(1)	(2)	(3)	(4)	(5)
कोटडा नायानी	554	0	65	10
	553	0	03	60
	540/1	0	22	50
	540/2	0	41	70
	541/1	0	30	15
	541/2	0	52	80
	525/1	0	19	05
	525/2	0	53	55
	524	0	39	00
	523/1	0	21	37
	523/2	0	00	14
वालासण	84 पैकी	0	04	19
	84 पैकी	0	23	74
	133 पैकी	0	45	53
	133 पैकी	0	36	75
	138/1 पैकी	0	60	31
	119/1 पैकी	0	15	00
	147 पैकी	0	39	34
	147 पैकी	0	10	46
	148 पैकी	0	47	42
	151/2 पैकी	0	08	64
	151/2 पैकी	0	35	31
	151/2 पैकी	0	08	00
	152/2 पैकी	0	33	82
	154/2	0	23	10
	154/1 पैकी	0	13	20
पीपलीया राज	155/1 पैकी	0	02	76
	155/1 पैकी	0	51	48
	155/2	0	26	40
	259/1 पैकी	0	20	66
	259/1 पैकी	0	04	84
	259/1 पैकी	0	13	50
	259/1 पैकी	0	22	46
	259/2 पैकी	0	03	54
	261/1	0	42	60
	261/2 पैकी	0	23	10

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	261/2 पैकी	0	25	80		78/2	0	30	14
	263 पैकी	0	37	73		79/1 पैकी	0	19	80
	263 पैकी	0	37	35		79/2 पैकी	0	17	82
	264	0	36	60		66 पैकी	0	23	53
	270 पैकी	0	00	07		66 पैकी	0	17	70
	266/3	0	26	18		65 पैकी	0	24	20
	266/2	0	29	55		52	0	34	41
	290/1 पैकी	0	22	95		62 पैकी	0	37	41
	290/1 पैकी	0	00	75		55/2 पैकी	0	16	47
	290/2 पैकी	0	22	35		16 पैकी	0	16	63
	291/1 पैकी	0	15	45		16 पैकी	0	20	69
	291/1 पैकी	0	13	50		16 पैकी	0	32	10
	292 पैकी	0	11	21		16 पैकी	0	30	03
	292 पैकी	0	11	22		56 पैकी	0	73	20
	293/1	0	29	70		17 पैकी	0	37	50
	293/2	0	25	43		17 पैकी	0	64	42
	67/1	0	37	01	सीधाबदर	80/1	0	36	65
	63 पैकी	0	22	70		73/1	0	00	99
	65	0	20	37		73/2	0	05	92
	52 पैकी	0	07	78		79 पैकी	0	20	34
	61 पैकी	0	17	70		77/1	0	64	78
	83/6	0	57	80		77/1 पैकी	0	23	85
	719 पैकी	0	02	80		77/2	0	02	03
	719 पैकी	0	48	90		143	0	06	25
	717/1 पैकी	0	20	85		45/1	0	65	73
	717/1 पैकी	0	46	75		145/1	0	47	10
	717/1 पैकी	0	27	00		145/2 पैकी	0	19	25
	717/1 पैकी	0	02	80		165	0	35	16
	714/4	0	05	61		164	0	00	58
	712 पैकी	0	17	70		163/1	0	19	01
	712 पैकी	0	27	00		163/2	0	30	90
	711 पैकी	0	38	20		415	0	19	50
	711 पैकी	0	36	80		416	0	11	40
	709	0	27	30		417	0	13	13
	708/1	0	24	97		418	0	16	05
	708/3	0	23	10		419/2	0	32	85
प्रतापगढ	75 पैकी	0	28	64		430	0	23	85
	75 पैकी	0	19	50		429	0	13	05
	76/2 पैकी	0	03	29		428	0	10	80
	76/3	0	33	19		427 पैकी	0	10	35

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	446/1 पैकी	0	11	10		238/1 पैकी	0	26	30
	547	0	37	80		238/1 पैकी	0	21	92
	548 पैकी	0	28	17		240/1	0	13	27
	565	0	12	84		240/3	0	07	80
	564	0	07	15		240/4	0	22	65
	563	0	17	74		240/5	0	05	55
	562	0	14	70		240/6	0	21	90
	561	0	27	30		241/1	0	23	77
	560/1	0	27	30		247	0	30	29
	555	0	24	30		248/2 पैकी	0	18	15
	556	0	28	50		248/2 पैकी	0	19	72
	554 पैकी	0	33	40		249/1 पैकी	0	22	76
	594 पैकी	0	01	92		249/1 पैकी	0	21	00
	594 पैकी	0	06	12		249/2	0	31	23
	594 पैकी	0	22	68		251/4	0	02	36
	595/पैकी	0	07	50		270	0	33	22
	595/पैकी	0	07	65		269	0	39	15
	596	0	17	10		267/1 पैकी	0	10	10
	597	0	16	65		267/1 पैकी	0	00	18
	598	0	39	00		267/2	0	52	11
	609	0	27	98		265	0	11	47
	610/1	0	01	96		308	0	46	34
	617	0	05	06		307/1	0	03	31
	616	0	28	16		306/1	0	13	63
	615 पैकी	0	24	64		306/2	0	29	88
	615 पैकी	0	61	35		305/1	0	23	10
	615 पैकी	0	38	15		305/2 पैकी	0	11	92
	671	0	04	88		305/2 पैकी	0	33	15
	672	0	38	58		305/2 पैकी	0	09	52
	675	0	79	95		291 पैकी	0	25	35
	676	0	32	25		291 पैकी	0	10	56
भोजपरा	33/1	0	38	13		38 पैकी	0	41	55
	34/1	0	36	15		40/1	0	24	15
	34/2	0	53	11		66/1	0	10	50
	35/1	0	43	35		66/2	0	10	85
	35/2	0	15	60		66/3	0	05	11
	36/1	0	10	92		65 पैकी	0	38	99
	36/2	0	06	46		65 पैकी	0	37	80
राजावड ला	237	0	25	90		77/1 पैकी	0	14	26
	238/1 पैकी	0	08	20		77/1 पैकी	0	09	36

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
लालपर	77/2 पैकी	0	14	10		107/2 /पैकी	0	18	60
	78/1	0	23	47		108/पैकी	0	51	48
	79/1 पैकी	0	27	22		108/पैकी	0	01	17
	79/2 पैकी	0	22	27		125 पैकी	0	30	15
	80/2 पैकी	0	25	27		125 पैकी			
	80/1	0	08	07		124 पैकी	0	11	00
	90/1	0	16	31		124 पैकी	0	11	05
	90/2	0	51	60		126	0	42	39
	84/1	0	50	63		139/1 पैकी	0	12	92
	85	0	08	63		139/2	0	38	30
	91/3	0	00	20		139/3	0	00	26
	56/पैकी	0	18	04		147 पैकी	0	01	56
	56/पैकी	0	08	30		140/2 पैकी	0	12	65
	58/1	0	21	36		140/1	0	80	99
	58/2	0	23	00		136 पैकी	0	25	05
	172/1	0	27	83		136 पैकी	0	29	70
	67/1	0	17	47	रसीकगढ	118/1	0	02	48
	74/1	0	53	01		118/2	0	18	01
	74/2	0	29	70		118/3	0	12	25
	76/1 पैकी	0	03	37		123 पैकी	0	23	41
	75/1	0	15	12		124 पैकी	0	12	82
	75/2	0	06	19		122/4	0	28	35
	169/1	0	24	39		124 पैकी	0	09	94
	169/3	0	13	42	पाज	30/2	0	18	44
	168/1	0	15	00		30/3	0	30	72
	168/2	0	15	30		31 पैकी	1	09	71
	161/2	0	39	16		35 पैकी	0	01	66
	161/1	0	00	45		34	0	05	13
	163/1	0	32	13		83 पैकी	0	18	83
	162 पैकी	0	02	10		82/1	0	31	48
	163/2	0	20	99		82/2	0	11	02
	147	0	18	73		82/3 पैकी	0	27	97
	145	0	13	14		81/3	0	24	00
	143	0	02	40		81/1	0	09	60
केराला	90	0	00	30		81/2	0	11	10
	91/5	0	12	68		79 पैकी	0	20	93
	91/3	0	37	21		78/2	0	12	83
	97 पैकी	0	20	85		86 पैकी	0	02	94
	106 पैकी	0	59	95		85/2	0	15	66
	107/1	0	15	90		87/1	0	32	55

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	88/1	0	23	85		39	0	44	10
	89 पैकी	0	09	00		38/1 पैकी	0	12	70
	89 पैकी	0	09	00		38/1 पैकी	0	46	10
	89 पैकी	0	17	10		47/3	0	31	34
	90 पैकी	0	16	50		47/2	0	18	00
	90 पैकी	0	10	07		47/1 पैकी	0	24	00
	91 पैकी	0	19	48		47/1 पैकी	0	21	60
	91 पैकी	0	29	70	दलडी	142/2 पैकी	0	04	35
	92/2 पैकी	0	10	80		144/1	0	08	09
	92/2 पैकी	0	13	50		138/1 पैकी	0	16	29
	94	0	07	87		138/2	0	03	28
	96/2	0	22	50		105/1	0	05	86
दीघलीया	83	0	15	03		105/2	0	18	25
	76 पैकी	0	07	15		105/3	0	13	27
	67 पैकी	0	39	21		104	0	30	90
	66/1 पैकी	0	39	90		103 पैकी	0	07	00
	66/2	0	09	00		103 पैकी	0	25	40
	68 पैकी	0	37	80		283/1 पैकी	0	29	70
	68 पैकी	0	10	16		91/2	0	20	81
	65	0	01	68	कासीपर	46/1	0	26	40
	64 पैकी	0	11	55		46/2	0	22	35
	64 पैकी	0	17	20		46/3	0	20	85
	63 पैकी	0	44	43		46/4	0	36	07
	63 पैकी	0	06	20		45 पैकी	0	03	25
	62/1	0	25	35		47	0	59	43
	61/1	0	11	85		48	0	42	97
	61/2	0	13	80		56 पैकी	0	28	72
	60	0	16	80		57	0	59	25
	55/1	0	38	40		58	0	42	80
	53/2	0	20	85		60	0	01	60
	53/1	0	36	50		59 पैकी	0	18	70
सेखरडी	19/1 पैकी	0	41	77		59 पैकी	0	20	17
	43/2	0	25	35					
	42/1	0	32	63					
	42/2	0	00	07					
	41/2	0	19	84					
	41/1	0	24	94					

[फा. सं. आर-31015/7/97-ओआर.II]

के. सी. कटोच, अवर सचिव

New Delhi, the 28th October, 1997

Schedule

Taluka: Wankaner District: Rajkot State: Gujarat

S.O. 2838.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, No. S. O. 1673, dated the 9th June, 1997, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum;

And whereas, the copies of the said gazette notification were made available to the public on the 5th day of July, 1997;

And whereas, the Competent authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas, the Central Government after considering the said report is satisfied that the right of user in the lands specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification are hereby acquired;

And further in exercise of the powers conferred by sub-section (4) of section 6 of the said section, the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest, free from all encumbrances, in the Bharat Oman Refineries Limited;

Name of Village	Survey/Block Number	Area Hectare Are Centare		
(1)	(2)	(3)	(4)	(5)
Kotda Nayani	554	0	65	10
	553	0	03	60
	540/1	0	22	50
	540/2	0	41	70
	541/1	0	30	15
	541/2	0	52	80
	525/1	0	19	05
	525/2	0	53	55
	524	0	39	00
	523/1	0	21	37
	523/2	0	00	14
Valasan	84 Paiki	0	04	19
	84 Paiki	0	23	74
	133 Paiki	0	45	53
	133 Paiki	0	36	75
	138/1 Paiki	0	60	31
	119/1 Paiki	0	15	00
	147 Paiki	0	39	34
	147 Paiki	0	10	46
	148 Paiki	0	47	42
	151/2 Paiki	0	08	64
	151/2 Paiki	0	35	31
	151/2 Paiki	0	08	00
	152/2 Paiki	0	33	82
	154/2	0	23	10
Pipaliya Raj	154/1 Paiki	0	13	20
	155/1 Paiki	0	02	76
	155/1 Paiki	0	51	48
	155/2	0	26	40
	259/1 Paiki	0	20	66
	259/1 Paiki	0	04	84
	259/1 Paiki	0	13	50
	259/1 Paiki	0	22	46
	259/2 Paiki	0	03	54
	261/1	0	42	60

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	261/2 Paiki	0	23	10		76/3	0	33	19
	261/2 Paiki	0	25	80		78/2	0	30	14
	263 Paiki	0	37	73		79/1 Paiki	0	19	80
	263 Paiki	0	37	35		79/2 Paiki	0	17	82
	264	0	36	60		66 Paiki	0	23	53
	270 Paiki	0	00	07		66 Paiki	0	17	70
	266/3	0	26	18		65 Paiki	0	24	20
	266/2	0	29	55		52	0	34	41
	290/1 Paiki	0	22	95		62 Paiki	0	37	41
	290/1 Paiki	0	00	75		55/2 Paiki	0	16	47
	290/2 Paiki	0	22	35		16 Paiki	0	16	63
	291/1 Paiki	0	15	45		16 Paiki	0	20	69
	291/1 Paiki	0	13	50		16 Paiki	0	32	10
	292 Paiki	0	11	21		16 Paiki	0	30	03
	292 Paiki	0	11	22		56 Paiki	0	73	20
	293/1	0	29	70		17 Paiki	0	37	50
	293/2	0	25	43		17 Paiki	0	64	42
	67/1	0	37	01	Sindhavadar	80/1	0	36	65
	63 Paiki	0	22	70		73/1	0	00	99
	65	0	20	37		73/2	0	05	92
	52 Paiki	0	07	78		79 Paiki	0	20	34
	61 Paiki	0	17	70		77/1	0	64	78
	83/6	0	57	80		77/1 Paiki	0	23	85
	719 Paiki	0	02	80		77/2	0	02	03
	719 Paiki	0	48	90		143	0	06	25
	717/1 Paiki	0	20	85		45/1	0	65	73
	717/1 Paiki	0	46	75		145/1	0	47	10
	717/1 Paiki	0	27	00		145/2 Paiki	0	19	25
	717/1 Paiki	0	02	80		165	0	35	16
	714/4	0	05	61		164	0	00	58
	712 Paiki	0	17	70		163/1	0	19	01
	712 Paiki	0	27	00		163/2	0	30	90
	711 Paiki	0	38	20		415	0	19	50
	711 Paiki	0	36	80		416	0	11	40
	709	0	27	30		417	0	13	13
	708/1	0	24	97		418	0	16	05
	708/3	0	23	10		419/2	0	32	85
Pratapghadh	75 Paiki	0	28	64		430	0	23	85
	75 Paiki	0	19	50		429	0	13	05
	76/2 Paiki	0	03	29		428	0	10	80

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	427 Paiki	0	10	35		238/1 Paiki	0	08	20
	446/1 Paiki	0	11	10		238/1 Paiki	0	26	30
	547	0	37	80		238/1 Paiki	0	21	92
	548 Paiki	0	28	17		240/1	0	13	27
	565	0	12	84		240/3	0	07	80
	564	0	07	15		240/4	0	22	65
	563	0	17	74		240/5	0	05	55
	562	0	14	70		240/6	0	21	90
	561	0	27	30		241/1	0	23	77
	560/1	0	27	30		247	0	30	29
	555	0	24	30		248/2 Paiki	0	18	15
	556	0	28	50		248/2 Paiki	0	19	72
	554 Paiki	0	33	40		249/1 Paiki	0	22	76
	594 Paiki	0	01	92		249/1 Paiki	0	21	00
	594 Paiki	0	06	12		249/2	0	31	23
	594 Paiki	0	22	68		251/4	0	02	36
	595/Paiki	0	07	50		270	0	33	22
	595/Paiki	0	07	65		269	0	39	15
	596	0	17	10		267/1 Paiki	0	10	10
	597	0	16	65		267/1 Paiki	0	00	18
	598	0	39	00		267/2	0	52	11
	609	0	27	98		265	0	11	47
	610/1	0	01	96		308	0	46	34
	617	0	05	06		307/1	0	03	31
	616	0	28	16		306/1	0	13	63
	615 Paiki	0	24	64		306/2	0	29	88
	615 Paiki	0	61	35		305/1	0	23	10
	615 Paiki	0	38	15		305/2 Paiki	0	11	92
	671	0	04	88		305/2 Paiki	0	33	15
	672	0	38	58		305/2 Paiki	0	09	52
	675	0	79	95		291 Paiki	0	25	35
	676	0	32	25		291 Paiki	0	10	56
Bhojpara	33/1	0	38	13		38 Paiki	0	41	55
	34/1	0	36	15		40/1	0	24	15
	34/2	0	53	11		66/1	0	10	50
	35/1	0	43	35		66/2	0	10	85
	35/2	0	15	60		66/3	0	05	11
	36/1	0	10	92		65 Paiki	0	38	99
	36/2	0	06	46		65 Paiki	0	37	80
Rajavadla	237	0	25	90		77/1 Paiki	0	14	26

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
Lalpar	77/1 Paiki	0	09	36		107/1	0	15	90
	77/2 Paiki	0	14	10		107/2 /Paiki	0	18	60
	78/1	0	23	47		108/Paiki	0	51	48
	79/1 Paiki	0	27	22		108/Paiki	0	01	17
	79/2 Paiki	0	22	27		125 Paiki	0	30	15
	80/2 Paiki	0	25	27		125 Paiki			
	80/1	0	08	07		124 Paiki	0	11	00
	90/1	0	16	31		124 Paiki	0	11	05
	90/2	0	51	60		126	0	42	39
	84/1	0	50	63		139/1 Paiki	0	12	92
	85	0	08	63		139/2	0	38	30
	91/3	0	00	20		139/3	0	00	26
	56/Paiki	0	18	04		147 Paiki	0	01	56
	56/Paiki	0	08	30		140/2 Paiki	0	12	65
	58/1	0	21	36		140/1	0	80	99
	58/2	0	23	00		136 Paiki	0	25	05
	172/1	0	27	83		136 Paiki	0	29	70
	67/1	0	17	47	Rasikgadh	118/1	0	02	48
	74/1	0	53	01		118/2	0	18	01
	74/2	0	29	70		118/3	0	12	25
	76/1 Paiki	0	03	37		123 Paiki	0	23	41
	75/1	0	15	12		124 Paiki	0	12	82
	75/2	0	06	19		122/4	0	28	35
	169/1	0	24	39		124 Paiki	0	09	94
	169/3	0	13	42	Paj	30/2	0	18	44
	168/1	0	15	00		30/3	0	30	72
	168/2	0	15	30		31 Paiki	1	09	71
	161/2	0	39	16		35 Paiki	0	01	66
	161/1	0	00	45		34	0	05	13
	163/1	0	32	13		83 Paiki	0	18	83
	162 Paiki	0	02	10		82/1	0	31	48
	163/2	0	20	99		82/2	0	11	02
	147	0	18	73		82/3 Paiki	0	27	97
	145	0	13	14		81/3	0	24	00
	143	0	02	40		81/1	0	09	60
Kerala	90	0	00	30		81/2	0	11	10
	91/5	0	12	68		79 Paiki	0	20	93
	91/3	0	37	21		78/2	0	12	83
	97 Paiki	0	20	85		86 Paiki	0	02	94
	106 Paiki	0	59	95		85/2	0	15	65

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	87/1	0	32	55		41/1	0	24	94
	88/1	0	23	85		39	0	44	10
	89 Paiki	0	09	00		38/1 Paiki	0	12	70
	89 Paiki	0	09	00		38/1 Paiki	0	46	10
	89 Paiki	0	17	10		47/3	0	31	34
	90 Paiki	0	16	50		47/2	0	18	00
	90 Paiki	0	10	07		47/1 Paiki	0	24	00
	91 Paiki	0	19	48		47/1 Paiki	0	21	60
	91 Paiki	0	29	70		142/2 Paiki	0	04	35
	92/2 Paiki	0	10	80	Daldi	144/1	0	08	09
	92/2 Paiki	0	13	50		138/1 Paiki	0	16	29
	94	0	07	87		138/2	0	03	28
	96/2	0	22	50		105/1	0	05	86
Dighaliya	83	0	15	03		105/2	0	18	25
	76 Paiki	0	07	15		105/3	0	13	27
	67 Paiki	0	39	21		104	0	30	90
	66/1 Paik	0	39	90		103 Paiki	0	07	00
	66/2	0	09	00		103 Paiki	0	25	40
	68 Paiki	0	37	80		283/1 Paiki	0	29	70
	68 Paiki	0	10	16		91/2	0	20	81
	65	0	01	68		46/1	0	26	40
	64 Paiki	0	11	55	Kasipar	46/2	0	22	35
	64 Paiki	0	17	20		46/3	0	20	85
	63 Paiki	0	44	43		46/4	0	36	07
	63 Paiki	0	06	20		45 Paiki	0	03	25
	62/1	0	25	35		47	0	59	43
	61/1	0	11	85		48	0	42	97
	61/2	0	13	80		56 Paiki	0	28	72
	60	0	16	80		57	0	59	25
	55/1	0	38	40		58	0	42	80
	53/2	0	20	85		60	0	01	60
	53/1	0	36	50		59 Paiki	0	18	70
Sekhardi	19/1 Paiki	0	41	77		59 Paiki	0	20	17
	43/2	0	25	35					
	42/1	0	32	63					
	42/2	0	00	07					
	41/2	0	19	84					

[File No. R-31015/7/97-OR.II]

K. C. Katoch, Under Secy.

नई दिल्ली, 28 अक्टूबर, 1997

का. आ. 2839.—केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962(1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1091, तारीख 27 मार्च, 1997 द्वारा पेट्रोलियम के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 26 अप्रैल, 1997 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त धारा की उप धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाए सभी विद्वगंमों से मुक्त भारत ओमान रिफाईनरीज़ लिमिटेड में निहित होगा।

तालुका: मातर		अनुसूची	राज्य: गुजरात		
गांव	सर्वेक्षण सं./ खंड सं.	जिला: खेडा	क्षेत्र		
(1)	(2)		हेक्टर	आरे	सेन्टीआरे
असामली	509		0	24	90
	496		0	44	37
	492		0	52	51
	491		0	79	80
	486		0	60	94
	487/2		0	02	28
	485		0	29	34
	484/2		0	08	23
	473		0	04	00
	484/1		0	12	04
	476		0	24	95
	474		0	03	61
	475		0	33	00
	454		0	41	25
	455		0	30	18
	457		0	00	72
	453		0	26	25
	452		0	25	80
	451		0	57	57
	450		0	02	20
नधनपुर	163		0	03	32
	162		0	46	37
	161/1		0	23	71
	161/2		0	01	35
	165		0	19	48
	160/1		0	00	52
	159		0	35	31
	158		0	40	17
	154/ए		0	04	25
	155		0	72	56
	152		0	38	98
	151		0	02	21
बरोडा	348		0	02	61
	336		0	13	14
	335		0	14	40
	334		0	20	57
	333		0	18	19

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	332	0	14	48		694	0	19	63
खरौंटी	890	0	22	52		678	0	29	80
	889	0	27	82		677	0	25	93
	888	0	37	95		601	0	04	03
	893	0	09	45		602/1	0	02	95
	894	0	14	77		603	0	11	40
	898	0	01	95		605	0	02	10
	886	0	40	21		612	0	11	63
	901	0	29	45		611	0	06	82
	885	0	01	40		622	0	05	13
	902	0	23	10		582	0	05	44
	883	0	77	82		583	0	10	11
	884	0	02	37		584	0	12	90
	881	0	25	73		585	0	01	75
	874	0	28	60		586	0	03	53
	871	0	20	40		587	0	05	26
	870	0	17	70	पुनाज	406	0	45	29
	869	0	23	10		414	0	03	99
	868	0	54	52		405	0	32	39
	836	0	14	10		404	0	06	20
	835/1	0	24	75		380	0	24	05
	835/2	0	01	37		402	0	25	75
	741/1	0	26	32		401	0	24	16
	834/2	0	05	00		382	0	33	74
	742	0	09	30		388	0	32	20
	748	0	29	41		387	0	19	80
	749	0	00	38		239	0	10	35
	768	0	17	35		238	0	08	70
	767	0	02	34		237	0	27	54
	766	0	39	00		236	0	31	10
	770	0	00	88		185	0	17	25
	765	0	12	60		184	0	27	12
	764	0	04	03		181	0	27	93
	771	0	05	12		180	0	32	25
	772	0	10	39		172	0	00	45
	790	0	32	49		173	0	29	88
	788	0	36	90		177	0	10	64
	783	0	15	59		178	0	03	57
	784	0	16	57		176	0	28	24
	785	0	26	90		144	0	22	72
	693	0	27	90		145	0	00	10

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)	
	143	0	16	10		179	0	14	40	
	179/2	0	02	22		175	0	15	07	
	142	0	21	45		176	0	09	87	
	179/3	0	23	85		500	0	28	35	
	141	0	28	50		502	0	08	75	
	148	0	34	55		497	0	21	68	
	381	0	01	88		2	0	05	65	
असलाली	82	0	45	80		496/ए	0	11	75	
	88	0	22	69		495	0	08	56	
	90	0	13	32		493	0	19	28	
	89	0	22	30		492	0	18	90	
	111	0	03	04		490	0	14	10	
	112	0	01	43		489	0	30	82	
	113	0	01	65		487	0	00	20	
	114	0	00	45	ग्रान्जा	53	0	16	20	
	110	0	02	58		50	0	13	80	
	127-बी	0	25	62		49	0	14	10	
	128	0	17	64		48	0	13	20	
	116	0	00	42		47	0	24	60	
	307	0	02	66		61	0	17	70	
	135	0	08	64		62	0	30	35	
	134	0	09	00		63	0	00	55	
	129	0	05	58		77	0	12	42	
	109	0	10	81		78	0	09	75	
	131	0	10	64		80	0	24	90	
	290	0	16	17		82	0	33	75	
	289	0	10	47		83	0	09	75	
	288	0	04	65		86	0	00	42	
	287	0	11	40		85	0	48	75	
	286/ए	}	0	15	30	मछीयेल	171	0	00	40
	286/बी					170	0	05	77	
	285	0	05	49		169	0	09	54	
	192	0	17	41		161	0	10	45	
	194	0	07	15		168	0	12	09	
	185	0	13	08		167	0	04	46	
	195	0	11	68		166	0	06	60	
	186	0	00	10		164	0	19	93	
	187	0	02	30		155	0	12	76	
	183	0	11	70		156	0	01	53	
	180	0	09	30		153	0	12	82	
	181	0	01	65		150	0	02	07	

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
149		0	18	62		1183	0	10	07
148		0	12	63		1182	0	02	14
147		0	11	10		1172	0	01	11
146		0	00	35	हेरन्ज	497	0	11	46
113		0	58	50		498	0	12	90
112		0	09	90		499	0	04	84
111		0	19	20		496	0	00	60
110		0	18	60		501	0	03	85
88		0	18	60		502	0	01	25
83		0	00	10		500	0	06	87
80		0	00	99		507	0	24	00
87		0	18	30		506	0	12	30
84		0	02	14		505	0	19	20
81		0	28	65		510	0	13	28
67		0	12	00		511	0	07	42
66		0	00	10		512	0	00	99
56		0	40	80		513	0	34	50
68		0	01	30		515	0	15	40
55		0	06	90		516	0	20	40
54		0	06	90		520	0	32	70
53		0	07	74		521	0	28	50
52		0	07	14		527	0	15	90
51		0	00	65		528	0	11	23
48		0	00	42		529	0	05	81
50		0	29	31		545	0	00	30
49		0	24	30		543	0	06	19
1204		0	05	55		546	0	29	71
1205		0	00	72		561	0	22	50
1209		0	07	54		563	0	58	50
1210		0	02	70		562	0	01	10
1208		0	11	13		567	0	44	40
1206		0	09	45		625	0	12	55
1207		0	08	21		626	0	03	71
1196		0	04	42	खांधली	11	0	02	00
1197		0	06	27		12	0	00	85
1195		0	03	01		13	0	16	77
1192		0	17	20		14	0	12	60
1187		0	02	25		15	0	12	30
1188		0	09	61		19	0	28	95
1184		0	05	75		20	0	10	70
1185		0	00	10					

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	21	0	00	90		910	0	12	50
	265	0	01	62		920	0	10	41
	266	0	13	11		922	0	18	08
	305	0	60	90		934/1	0	10	75
	321	0	38	52		937	0	08	84
	320	0	03	14		938	0	15	29
	322	0	35	12		939	0	24	60
	322/ए	0	01	10		1170/1	0	27	25
	324	0	17	60		1171	0	16	91
	334	0	30	74		1172	0	09	76
	336	0	01	75	मलियातज	16	0	30	90
	333	0	14	17		17	0	20	15
	338	0	01	92		24	0	01	20
	339	0	22	60		26	0	34	50
	339/ए	0	13	80		34	0	23	10
	342	0	01	10		36/1	0	29	85
	341	0	20	40		36/2	0	01	72
	340	0	06	09		42	0	11	44
	353	0	03	00		43	0	05	86
	354	0	24	37		46	0	11	55
	335	0	01	75		47	0	04	75
	362	0	00	18		51	0	04	20
	361	0	00	18		59	0	00	39
	355	0	14	53		50	0	15	25
	356	0	15	00		58	0	26	66
नावल	875	0	18	60		57	0	09	24
	874	0	17	47		56	0	14	40
	873	0	01	60		98	0	09	90
	871	0	05	19		96	0	21	80
	882	0	03	57		87	0	16	25
	883	0	17	11		103	0	03	61
	885	0	12	90		104	0	16	80
	897	0	15	44		85	0	28	80
	898	0	05	10		83	0	07	50
	899	0	00	99		82	0	18	15
	896	0	10	12		81	0	06	97
	895	0	03	87		80	0	02	79
	894	0	08	10		75	0	02	37
	893	0	07	20		76	0	22	97
	909	0	23	54		77	0	11	37
	908	0	04	00	सीहोलडी	436	0	21	48

(1)	(2)	(3)	(4)	(5)
	399	0	47	61
	435	0	20	52
	401	0	23	40
	402	0	14	40
	403	0	01	04
	418	0	13	66
	417	0	17	34
	416	0	17	85
	415	0	03	75
	411	0	03	44
	412	0	08	49
	413	0	06	50
	405	0	00	70

[फा. सं. आर-31015/24/96-ओआर. II]

के. सी. कटोच्च, अवर सचिव

New Delhi, the 28th October, 1997

S.O. 2839. Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S. O. 1091 dated the 27th March 1997, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum;

And whereas, the copies of the said gazette notification were made available to the public on the 26th day of April, 1997;

And whereas, the Competent authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas, the Central Government after considering the said report is satisfied that

the right of user in the lands specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification are hereby acquired;

And further in exercise of the powers conferred by sub-section (4) of the said section, the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest, free from all encumbrances, in the Bharat Oman Refineries Limited.

Schedule				
Taluka: Matar	District: Kheda	State: Gujarat		
Village	Survey/Block Number	Area		
		Hectare	Are	Centare
(1)	(2)	(3)	(4)	(5)
Asamali	509	0	24	90
	496	0	44	37
	492	0	52	51
	491	0	79	80
	486	0	60	94
	487/2	0	02	28
	485	0	29	34
	484/2	0	08	23
	473	0	04	00
	484/1	0	12	04
	476	0	24	95
	474	0	03	61
	475	0	33	00
	454	0	41	25
	455	0	30	18
	457	0	00	72
	453	0	26	25
	452	0	25	80
	451	0	57	57
	450	0	02	20
Nadhanpur	163	0	03	32
	162	0	46	37
	161/1	0	23	71

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	173	0	29	88		180	0	09	30
	177	0	10	64		181	0	01	65
	178	0	03	57		179	0	14	40
	176	0	28	24		175	0	15	07
	144	0	22	72		176	0	09	87
	145	0	00	10		500	0	28	35
	143	0	16	10		502	0	08	75
	179/2	0	02	22		497	0	21	68
	142	0	21	45		2	0	05	65
	179/3	0	23	85		496/A	0	11	75
	141	0	28	50		495	0	08	56
	148	0	34	55		493	0	19	28
	381	0	01	88		492	0	18	90
Asalali	82	0	45	80		490	0	14	10
	88	0	22	69		489	0	30	82
	90	0	13	32		487	0	00	20
	89	0	22	30	Tranja	53	0	16	20
	111	0	03	04		50	0	13	80
	112	0	01	43		49	0	14	10
	113	0	01	65		48	0	13	20
	114	0	00	45		47	0	24	60
	110	0	02	58		61	0	17	70
	127-B	0	25	62		62	0	30	35
	128	0	17	64		63	0	00	55
	116	0	00	42		77	0	12	42
	307	0	02	66		78	0	09	75
	135	0	08	64		80	0	24	90
	134	0	09	00		82	0	33	75
	129	0	05	58		83	0	09	75
	109	0	10	81		86	0	00	42
	131	0	10	64		85	0	48	75
	290	0	16	17	Machhiyel	171	0	00	40
	289	0	10	47		170	0	05	77
	288	0	04	65		169	0	09	54
	287	0	11	40		161	0	10	45
	286/A	0	15	30		168	0	12	09
	286/B	0				167	0	04	46
	285	0	05	49		166	0	06	60
	192	0	17	41		164	0	19	93
	194	0	07	15		155	0	12	76
	185	0	13	08		156	0	01	53
	195	0	11	68		153	0	12	82
	186	0	00	10		150	0	02	07
	187	0	02	30		149	0	18	62
	183	0	11	70		148	0	12	63

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	161/2	0	01	35		765	0	12	60
	165	0	19	48		764	0	04	03
	160/1	0	00	52		771	0	05	12
	159	0	35	31		772	0	10	39
	158	0	40	17		790	0	32	49
	154/A	0	04	25		788	0	36	90
	155	0	72	56		783	0	15	59
	152	0	38	98		784	0	16	57
	151	0	02	21		785	0	26	90
Baroda	348	0	02	61		693	0	27	90
	336	0	13	14		694	0	19	63
	335	0	14	40		678	0	29	80
	334	0	20	57		677	0	25	93
	333	0	18	19		601	0	04	03
	332	0	14	48		602/1	0	02	95
Kharenti	890	0	22	52		603	0	11	40
	889	0	27	82		605	0	02	10
	888	0	37	95		612	0	11	63
	893	0	09	45		611	0	06	82
	894	0	14	77		622	0	05	13
	898	0	01	95		582	0	05	44
	886	0	40	21		583	0	10	11
	901	0	29	45		584	0	12	90
	885	0	01	40		585	0	01	75
	902	0	23	10		586	0	03	53
	883	0	77	82		587	0	05	26
	884	0	02	37	Punaj	406	0	45	29
	881	0	25	73		414	0	03	99
	874	0	28	60		405	0	32	39
	871	0	20	40		404	0	06	20
	870	0	17	70		380	0	24	05
	869	0	23	10		402	0	25	75
	868	0	54	52		401	0	24	16
	836	0	14	10		382	0	33	74
	835/1	0	24	75		388	0	32	20
	835/2	0	01	37		387	0	19	80
	741/1	0	26	32		239	0	10	35
	834/2	0	05	00		238	0	08	70
	742	0	09	30		237	0	27	54
	748	0	29	41		236	0	31	10
	749	0	00	38		185	0	17	25
	768	0	17	35		184	0	27	12
	767	0	02	34		181	0	27	93
	766	0	39	00		180	0	32	25
	770	0	00	88		172	0	00	45

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	147	0	11	10		499	0	04	84
	146	0	00	35		496	0	00	60
	113	0	58	50		501	0	03	85
	112	0	09	90		502	0	01	25
	111	0	19	20		500	0	06	87
	110	0	18	60		507	0	24	00
	88	0	18	60		506	0	12	30
	83	0	00	10		505	0	19	20
	80	0	00	99		510	0	13	28
	87	0	18	30		511	0	07	42
	84	0	02	14		512	0	00	99
	81	0	28	65		513	0	34	50
	67	0	12	00		515	0	15	40
	66	0	00	10		516	0	20	40
	56	0	40	80		520	0	32	70
	68	0	01	30		521	0	28	50
	55	0	06	90		527	0	15	90
	54	0	06	90		528	0	11	23
	53	0	07	74		529	0	05	81
	52	0	07	14		545	0	00	30
	51	0	00	65		543	0	06	19
	48	0	00	42		546	0	29	71
	50	0	29	31		561	0	22	50
	49	0	24	30		563	0	58	50
	1204	0	05	55		562	0	01	10
	1205	0	00	72		567	0	44	40
	1209	0	07	54		625	0	12	55
	1210	0	02	70		626	0	03	71
	1208	0	11	13	Khandhali	11	0	02	00
	1206	0	09	45		12	0	00	85
	1207	0	08	21		13	0	16	77
	1196	0	04	42		14	0	12	60
	1197	0	06	27		15	0	12	30
	1195	0	03	01		19	0	28	95
	1192	0	17	20		20	0	10	70
	1187	0	02	25		21	0	00	90
	1188	0	09	61		265	0	01	62
	1184	0	05	75		266	0	13	11
	1185	0	00	10		305	0	60	90
	1183	0	10	07		321	0	38	52
	1182	0	02	14		320	0	03	14
	1172	0	01	11		322	0	35	12
Heranj	497	0	11	46		322/A	0	01	10
	498	0	12	90		324	0	17	60
						334	0	30	74

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	336	0	01	75		34	0	23	10
	333	0	14	17		36/1	0	29	85
	338	0	01	92		36/2	0	01	72
	339	0	22	60		42	0	11	44
	339/A	0	13	80		43	0	05	86
	342	0	01	10		46	0	11	55
	341	0	20	40		47	0	04	75
	340	0	06	09		51	0	04	20
	353	0	03	00		59	0	00	39
	354	0	24	37		50	0	15	25
	335	0	01	75		58	0	26	66
	362	0	00	18		57	0	09	24
	361	0	00	18		56	0	14	40
	355	0	14	53		98	0	09	90
	356	0	15	00		96	0	21	80
Lawal	875	0	18	60		87	0	16	25
	874	0	17	47		103	0	03	61
	873	0	01	60		104	0	16	80
	871	0	05	19		85	0	28	80
	882	0	03	57		83	0	07	50
	883	0	17	11		82	0	18	15
	885	0	12	90		81	0	06	97
	897	0	15	44		80	0	02	79
	898	0	05	10		75	0	02	37
	899	0	00	99		76	0	22	97
	896	0	10	12		77	0	11	37
	895	0	03	87		436	0	21	48
	894	0	08	10	Siholadi	399	0	47	61
	893	0	07	20		435	0	20	52
	909	0	23	54		401	0	23	40
	908	0	04	00		402	0	14	40
	910	0	12	50		403	0	01	04
	920	0	10	41		418	0	13	66
	922	0	18	08		417	0	17	34
	934/1	0	10	75		416	0	17	85
	937	0	08	84		415	0	03	75
	938	0	15	29		411	0	03	44
	939	0	24	60		412	0	08	49
	1170/1	0	27	25		413	0	06	50
	1171	0	16	91		405	0	00	70
	1172	0	09	76					
Maliyataj	16	0	30	90					
	17	0	20	15					
	24	0	01	20					
	26	0	34	50					

[File No. R-31015/24/96-OR.II]
K. C. Katoch, Under Secy

नई दिल्ली, 4 नवम्बर, 1997

का. आ. 2840.—केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962(1962 का 50) (जिसे इसमें इसकेपश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 903, तारीख 19 मार्च, 1997 द्वारा पेट्रोलियम उत्पाद के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 5 अप्रैल, 1997 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त धारा की उप धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लगनों से मुक्त होकर भारत ओमान रिफाईनरीज लिमिटेड में निहित होगा।

अनुसूची

तालुका: लालपर		जिला: जामनगर		राज्य: गुजरात	
गांव का नाम	सर्वेक्षण सं./ खंड सं.	क्षेत्र हेक्टर आरे सेन्टीआरे			
(1)	(2)	(3)	(4)	(5)	
सींगच	320/1	0	12	08	
	286 पैकी	0	13	26	
	283 पैकी	0	14	40	
	283 पैकी	0	01	49	
	283 पैकी	0	14	40	
	251	0	25	95	
	259	0	23	06	
	258 पैकी	0	04	19	
	255	0	34	32	
	257/2	0	00	02	
	256	0	05	23	
	237/1	0	11	94	
	237/2	0	18	00	
	236 पैकी	0	12	02	
	233 पैकी	0	27	00	
	233 पैकी	0	13	91	
	232 पैकी	0	09	60	
	149	0	30	68	
	147	0	41	29	
	146 पैकी	0	03	11	
	143	0	27	53	
	137/1	0	22	20	
	137/2 पैकी	0	06	75	
	137/2 पैकी	0	33	00	
	137/2 पैकी	0	04	37	
	137/3	0	03	45	
	137/7	0	15	13	
	137/8	0	01	13	

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	139/2 पैकी	0	11	00		147/1	0	10	28
	138/2 पैकी	0	53	05		145	0	00	19
	135 पैकी	0	34	58		139	0	49	16
जांखर	490	0	22	50	जोगवड	210	0	60	54
	488 पैकी	0	85	20		44	0	03	58
	82 पैकी	0	22	21		43	0	71	40
	494 पैकी	0	40	18		195 पैकी	0	68	79
	39 पैकी	0	68	73		196	0	16	54
	501 पैकी	0	48	40		189	0	41	40
	487 पैकी	0	02	57		188	0	27	35
	502	0	45	75		190	0	16	55
	505 पैकी	0	14	60		176	0	04	78
	505 पैकी	0	14	45		177	0	15	21
	504	0	38	39		178/1	0	15	75
	519	0	28	35		179	0	08	94
	520 पैकी	0	24	15		180	0	03	09
	521	0	28	95		50/3	0	04	50
	529	0	32	10		170	0	28	26
	522	0	00	40		62	0	56	18
	175	0	26	55		53/1	0	78	23
	176	0	25	43		161	0	03	00
	177	0	11	48		162	0	67	58
	178	0	50	69		165	0	11	10
	180 पैकी	0	00	76		163	0	38	77
	173	0	13	43		157	0	31	35
	174	0	46	50		155	0	12	30
	158	0	22	50		151	0	35	35
	154 पैकी	0	24	08		154 पैकी	0	20	40
	153 पैकी	0	62	40		153	0	41	10
	150	0	22	17					
	149	0	00	11					
	146	0	38	48					

[फा. सं. आर-31015/30/96-ओआर. II]

के. सी. कटोच, अवर सचिव

Schedule

New Delhi, the 4th November, 1997

S.O. 2840.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S. O. 903, dated the 19th March 1997, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum products;

And whereas, the copies of the said gazette notification were made available to the public on the 5th day of April, 1997;

And whereas, the competent authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas, the Central Government after considering the said report is satisfied that the right of user in the lands specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification are hereby acquired;

And further in exercise of the powers conferred by sub-section (4) of the said section, the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest, free from all encumbrances, in the Bharat Oman Refineries Limited.

Taluka: Lalpur District: Jamnagar State: Gujarat

Name of Village	Survey/Block number	Area		
		Hectare	Are	Centare
(1)	(2)	(3)	(4)	(5)
Singach	320/1	0	12	08
	286 Paiki	0	13	26
	283 Paiki	0	14	40
	283 Paiki	0	01	49
	283 Paiki	0	14	40
	251	0	25	95
	259	0	23	06
	258 Paiki	0	04	19
	255	0	34	32
	257/2	0	00	02
	256	0	05	23
	237/1	0	11	94
	237/2	0	18	00
	236 Paiki	0	12	02
	233 Paiki	0	27	00
	233 Paiki	0	13	91
	232 Paiki	0	09	60
	149	0	30	68
	147	0	41	29
	146 Paiki	0	03	11
	143	0	27	53
	137/1	0	22	20
	137/2 Paiki	0	06	75
	137/2 Paiki	0	33	00
	137/2 Paiki	0	04	37
	137/3	0	03	45
	137/7	0	15	13
	137/8	0	01	13

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	139/2 Paiki	0	11	00		147/1	0	10	28
	138/2 Paiki	0	53	05		145	0	00	19
	135 Paiki	0	34	58		139	0	49	16
Jhankhar	490	0	22	50	Jogwad	210	0	60	54
	488 Paiki	0	85	20		44	0	03	58
	82 Paiki	0	22	21		43	0	71	40
	494 Paiki	0	40	18		195 Paiki	0	68	79
	39 Paiki	0	68	73		196	0	16	54
	501 Paiki	0	48	40		189	0	41	40
	487 Paiki	0	02	57		188	0	27	35
	502	0	45	75		190	0	16	55
	505 Paiki	0	14	60		176	0	04	78
	505 Paiki	0	14	45		177	0	15	21
	504	0	38	39		178/1	0	15	75
	519	0	28	35		179	0	08	94
	520 Paiki	0	24	15		180	0	03	09
	521	0	28	95		50/3	0	04	50
	529	0	32	10		170	0	28	26
	522	0	00	40		62	0	56	18
	175	0	26	55		53/1	0	78	23
	176	0	25	43		161	0	03	00
	177	0	11	48		162	0	67	58
	178	0	50	69		165	0	11	10
	180 Paiki	0	00	76		163	0	38	77
	173	0	13	43		157	0	31	35
	174	0	46	50		155	0	12	30
	158	0	22	50		151	0	35	35
	154 Paiki	0	24	08		154 Paiki	0	20	40
	153 Paiki	0	62	40		153	0	41	10
	150	0	22	17					
	149	0	00	11					
	146	0	38	48					

[File No. R-31015/30/96-OR.II]

K. C. Katoch, Under Secy

नई दिल्ली, 7 नवम्बर, 1997

का. आ. 2841.—केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में वाडीनार से मध्य प्रदेश राज्य में बीना तक पेट्रोलियम के परिवहन के लिये " भारत ओमान रिफाईनरीज लिमिटेड " द्वारा पाईप लाईन बिछाई जानी चाहिये ;

और ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है ;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उनमें उपयोग का अधिकार अर्जित करने का आशय घोषित करती है ;

उक्त अनुसूची में वर्णित भूमि में दितबद्ध कोई व्यक्ति, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिन के भीतर, उनमें उपयोग के अधिकार के अर्जन या भूमि में पाइपलाइन बिछाने के सम्बन्ध में आक्षेप लिखित रूप से श्री दीपक देशपांडे, सक्षम प्राधिकारी, भारत ओमान रिफाईनरीज लिमिटेड, 31 बार्ड, जैन तख्तमल कॉलोनी, सिविल लाईन, मेन रोड, विदिशा-464001 म.प्र. को कर सकेगा।

अनुसूची

तहसील - राघौगढ़	जिला - गुना	राज्य - मध्य प्रदेश
गाँव का नाम	सर्वे क्रमांक	क्षेत्र हेक्टेयर/आरे
(1)	(2)	(3)
अगरपुरा	12	0.174
	13 / 1	0.500
	32	0.564
	33	0.418
	34 / 1	0.219
	34 / 2	0.243
	81 / 2	0.282
	81 / 4	0.167
	81 / 8	0.366
	81 / 11	0.239
	81 / 12	0.167
	83	0.177
	86 / 1	0.063
	86 / 2	0.438
	87 / 1	0.261
	87 / 2	0.105
	88	0.135
	89	0.261
	127	0.020
	134 / 3	0.251
	139	0.020
	155	0.199
	156	0.554
कंजलिया	160 / 1	0.677
	160 / 1 / 1 / 3	0.334
	162	0.199
	165	0.376
	166	0.041
	4 / 2	0.052
	8 / 1	0.175
	8 / 2क	0.175

(1)	(2)	(3)
	9	0.031
	10	0.042
	11	0.292
	12	0.345
	14	0.010
	19	0.219
	20	0.692
नलखेड़ा	58 / 1	0.390
	58 / 2	0.318
	63	0.600
	71	0.300
	74	0.300
	75	0.540
	76	0.209
	79 / 2	0.209
	79 / 3	0.209
	80	0.840
	88	0.010
	91	0.240
	95 / 2	0.398
	105	0.125
	106 / 2	0.157
	115 / 1	0.073
	115 / 2	0.261
	118 / 2 / 3	0.206
	120	0.219
	128	0.260
	129	0.180
	131	0.420
	133	0.200
	134	0.105
	143	0.031
	343	0.031
	137	0.240
मकसूदनगढ़	4 / 1	0.754
	4 / 2	0.754
	10 / 2	0.350
	10 / 3	0.218
	13 / 2	0.550
	14	0.015
	15	0.052
	18 / 1	0.382
	20 / 1	0.225
	24	0.152
	27	0.015
	27 / 3	0.429
	33	0.429
	34 / क	0.010
	87	0.042
	93	0.449
	94	0.335
	96 / 3	0.802
	100	0.449
	151	0.073
	155	0.260
	157 / 1	0.393
	159	0.251
	161	0.387
	454	0.031
	455	0.281
	456 / 2ख	0.251
	457	0.231
	458	0.162

[सं. आर-31015/29/97 -ओआर. II]

के. सी. कटोच, अवर सचिव

New Delhi, the 7th November, 1997

S.O. 2841.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Vadinar in the State of Gujarat to Bina in the State of Madhya Pradesh a pipeline should be laid by the Bharat Oman Refineries Limited;

And whereas for the purpose of laying such pipeline, it is necessary to acquire the right of users in the lands described in the Schedule annexed to this notification;

Now, therefore, in exercise of powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the lands described in the said Schedule may within twenty-one days from the date on which the copies of the notification, as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri Deepak Deshpande, the Competent Authority, Bharat Oman Refineries Limited, 31 Ward, Jain Takhtmal Colony, Civil Lines, Main Road, Vidisha 464-001, Madhya Pradesh.

Schedule

Tehsil : **Raghogarh** District : **Guna** State : **Madhya Pradesh**

Name of Village	Survey Nos.	Area Hectare and Are
(1)	(2)	(3)
Agarpura	12	0.174
	13 / 1	0.500
	32	0.564
	33	0.418
	34 / 1	0.219
	34 / 2	0.243
	81 / 2	0.282
	81 / 4	0.167
	81 / 8	0.366
	81 / 11	0.239
	81 / 12	0.167
	83	0.177
	86 / 1	0.063
	86 / 2	0.438
	87 / 1	0.261
	87 / 2	0.105
	88	0.135
	89	0.261
	127	0.020
	134 / 3	0.251
F. ajaliya	139	0.020
	155	0.199
	156	0.554
	160 / 1	0.677
	160 / 1 / 1 / 3	0.334
	162	0.199
	165	0.376
	166	0.041
	4 / 2	0.052
	8 / 1	0.175
Balakhedi		

(1)	(2)	(3)
Nalkheda	8 / 2 A	0.175
	9	0.031
	10	0.042
	11	0.292
	12	0.345
	14	0.010
	19	0.219
	20	0.692
	58 / 1	0.390
	58 / 2	0.318
	63	0.600
	71	0.300
	74	0.300
	75	0.540
	76	0.209
	79 / 2	0.209
	79 / 3	0.209
	80	0.840
	88	0.010
	91	0.240
Maksudangarh	95 / 2	0.398
	105	0.125
	106 / 2	0.157
	115 / 1	0.073
	115 / 2	0.261
	118 / 2 / 3	0.206
	120	0.219
	128	0.260
	129	0.180
	131	0.420
	133	0.200
	134	0.105
	143	0.031
	343	0.031
	137	0.240
	4 / 1	0.754
	4 / 2	0.754
	10 / 2	0.350
	10 / 3	0.218
	13 / 2	0.550
	14	0.015
	15	0.052
	18 / 1	0.382
	20 / 1	0.225
	24	0.152
	27	0.015
	27 / 3	0.429
	33	0.429
	34 / A	0.010
	87	0.042
	93	0.449
	94	0.335
	96 / 3	0.802
	100	0.449
	151	0.073
	155	0.260
	157 / 1	0.393
	159	0.251
	161	0.387
	454	0.031
	455	0.281
	456 / 2 B	0.251
	457	0.231
	458	0.162

[No. R-31015/29/97-OR. II]

K. C. Katoch, Under Secy.

नई दिल्ली, 8 अक्टूबर, 1997

का. आ. 2842:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया लि. के प्रबन्धतंत्र के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2), मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-97 को प्राप्त हुआ था।

[सं. एल-20030/8/95-आई आर (सी-1)]
ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 8th October, 1997

S.O. 2842.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No.-2), Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India Ltd. and their workman, which was received by the Central Government on 8-10-1997.

[No. L-20030/8/95-IR(C-I)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II MUMBAI

PRESENT :

Shri S. B. PANSE, Presiding Officer.

REFERENCE NO. CGIT-2/41 of 1996

Employers in relation to the Management of AIR
India Ltd.

AND

Their workmen

APPEARANCES :

For the Employer : Mr. Abhay Kulkarni & Mrs.
Pooja Kulkarni Advocates.

For the Workmen : Mr. U. S. Desai Advocate.
Mumbai, dated 29th August, 1997.

AWARD—PART—I

The Government of India, Ministry of Labour by its order No. L-20030(8)/95-IR(Coal-I) dated 4-9-96 had referred to the following Industrial Dispute for adjudication.

“Whether the action of the management of Air India Ltd., in awarding to Shri A. L. Mahadevan, Master Technician the punishment of

two days suspension on loss of pay and allowances is justified ? If not, to what relief is the said workman entitled ?”

2. The workman filed a statement of claim at Exhibit-3. He contended that this reference was raised by Indian Aircraft Technicians Association in respect of the order of suspension dated 24-9-1993 issued by Air India Ltd. (in short company) to Mr. A.L. Mahadevan (workman).

3. The workman pleaded that there was an incident of refusal to do work at the week end by the engine overhaul department (90 Module section) numbering about 25 staff on the ground that their co-workmen who were suspended should be taken back in service. The dispute was admitted before the Assistant Labour Commissioner Central Bombay. He was dealing with it.

4. On September 18, 1992 the matter was before the Assistant Labour Commissioner in respect of that dispute for conciliation. The workmen received a phone call at about 15.50 hours from the members to attend the Dy. Commissioner of Labour, Central in that meeting. The workman approached K. M. Unni Assistant Engine Manager with an application allowing him to leave the office one hour earlier to participate in the meeting but Mr. Unni refused to grant such a permission, without giving any reasons. Thereafter the workman orally requested him that he may be allowed to leave the office one hour earlier by punching time card resulting into loss of one hours salary. Then Unni allowed the worker to leave office one hour earlier needless to state that the company also deducted one hours wages from wages for the month of October 1992.

5. The workman pleaded that on 28-9-1992 the company issued him show cause notice for leaving office one hour earlier and asked for explanation. He gave an explanation on 1-10-1992. The explanation was not accepted to the company. It is therefore, he was issued a chargesheet dated 20-10-1992 contending that he had committed a misconduct under the model standing order namely ; (1) wilful insubordination/disobedience to lawful and reasonable orders of superiors (2) Breach of law applicable to the establishment.

6. The company also established inquiry committee by an order dated 12-11-1992. The committee conducted a domestic inquiry against the workman in respect of the charges and submitted its report finding the workman guilty. It is alleged that the domestic inquiry which was held against him was against the Principal of natural justice. The charge-sheet which was issued to him was vague and the inquiry committee acted as a prosecutor.

7. The workman pleaded that the inquiry committee send the report, undated to suit the purpose of the company. That itself goes to show that it decided to punish the worker from the initial stage. It is averred that the suspension order was issued without calling for his report on the inquiry. He asserted that when his appeal was pending the orders of suspension were issued. It is averred that the appeal

was decided by the same person who passed the suspension order which is against the Principles of Natural Justice.

8. The workman averred that the inquiry committee did not appreciate the evidence before it in a proper sense and its findings are perverse. It is prayed that the order which is passed by the management be set aside and the company may be directed to pay the salary of those two days with other benefits.

9. The management resisted the claim by the written statement Exhibit-4. It is averred that the dispute which is referred to this Tribunal is not an Industrial Dispute as contemplated under the Industrial Disputes Act of 1947 (in short Act). It is pleaded that the inquiry which was held against the workman was as per the Principles of Natural Justice and the findings of the inquiry committee are legal and proper. The management denied the contentions which were raised against them in respect of the domestic inquiry. It is submitted that the workman is not entitled to any of the reliefs as claimed.

10. The issues are framed at Exhibit-10. First three issues are to be treated as the preliminary issues. The issues and my findings thereon are as follows :

Issues	Findings
1. Whether the domestic inquiry which was held against the workman was against the Principles of Natural Justice ?	No
2. Whether the findings of the inquiry officer are perverse ?	Yes
3. Whether the reference is not maintainable as it is not an Industrial Dispute contemplated under the Industrial Disputes Act of 1947 ?	Maintainable

REASONS

11. Mr. Kulkarni, the Learned Advocate for the company argued that there is no community of interest so far as the reference is concerned and it is not espoused by the trade union or a group of workmen. As this is so the Tribunal has no jurisdiction to decide the matter. He tried to submit that the statement of claim is signed by the workmen and the punishment which was awarded to him was two days suspension on loss of pay and allowance. Therefore it cannot be dispute of community of interest. On the other hand the Learned Advocate for the union submitted that the workman was authorised by the President of the Union to represent the case. It is the union namely the Indian Aircraft Technicians Association is espousing the dispute.

12. Mahadevan (Ex-9) in the cross examination affirmed that he belonged to the Indian Aircraft Technicians Association but he is not office bearer of the union. He does not know whether the union had passed a resolution to espouse his case but the President had written to Regional Labour Commissioner and he was asked to represent that case. He also stated that he can produce a copy of that letter. He produced the copy of that letter dated 17-10-94 (Ex-

12/1) written by President to the Assistant Labour Commissioner. His status is of Union Representative. It clearly speaks that Mahadevan was authorised to represent, to appear before him for disputes raised by I.A. dated 22-3-1994. It is tried to submit that there is no acknowledgement from the Assistant Labour Commissioner on this letter. But that does not change the position that the dispute was raised by the union. It is because the letter clearly gives the reference to the dispute and further more after submission of failure report of the Assistant Labour Commissioner in respect of that dispute the present reference is before this Tribunal. That clearly suggests that the dispute was raised by the union.

13. Mr. Kulkarni, the Learned Advocate for the company placed reliance on Rajasthan State Road Transport Corporation Vs. Krishnakanth ETC 1995 II CLR 180 wherein Their Lordships observed :

"The expression 'Industrial Dispute' is defined in section 2-K to mean any dispute or difference (i) between employees (ii) between employees and workmen and (iii) between workmen and workmen, provided such dispute is connected with the employment, non-employment terms of employment or conditions of employment of any person. It is well settled by several decisions of this court that a dispute between the employer and an individual workman does not constitute an Industrial Dispute unless the cause of the workman is espoused by a body of workmen (see Bombay union of Journalist V. The Hindu [1961] (2) L.L.J. 436 SC). Of course, where the dispute concerns the body of the workers as a whole or to a section thereof, it is an Industrial Dispute. It is precisely for this reason that section 2-A was inserted by Amendment Act 35 of 1965. It says 'where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute'. By virtue of this provision the scope of the concept of industrial dispute has been widened, which now embraces not only section 2(k) but also section 2-A. Section 2-A, however, covers only cases of discharge, dismissal, retrenchment or termination otherwise of services of an individual and not other matters which mean that to give an example-if a workman is reduced in rank pursuant to a domestic enquiry the dispute raised by him does not become an industrial dispute within if the meaning of Section 2-A (However if the union or body of workmen espouses his cause, it does become an industrial dispute). We have given only one instance; there may be many disputes which would not

fall within section (2-k) or section 2-A. It is obvious that in all such cases, the remedy is only in a Civil Court or by way of arbitrating according to law, if the parties so choose. The machinery provided by the Industrial Disputes Act for resolution of disputes (in short sections 10 or 12) does not apply to such a dispute."

14. Now it is to be seen whether it is espoused by the union. I have already stated above that it is espoused by the union and the President had written to that effect. Mr. Kulkarni, the Learned Advocate for the company argued that while doing so there should be a resolution passed by the union to that effect. If there is no such resolution then it cannot be said that all members of the union are ready to espouse the case. I am not inclined to accept this submission that unless there is a resolution it cannot be said that it is espoused by the union. It is common knowledge that when there is a necessity then only the meeting is called and the activities which are already taken place are approved in the meeting by resolution. Here the president of the Union had written to the A.L.C. regarding the dispute which was raised by the union. It is only a formality which remained to be done if at all it is said to be required to be done.

15. Mr. Kulkarni, the Learned advocate for the management placed reliance on *Visha Laxmi Mills Ltd. and Labour Court Madurai 1962 II LLJ 1993*. In this case Their Lordships observed that there should be an evidence to show that there is espousing the case and is either by resolution or by other means and collectively started on the date of the reference by the union which is not a usual dispute. Here in this case the letter itself clearly suggests the support of the union to espouse the dispute. In another case *Tripathi Mills Ltd. Vs. Labour Court, Guntur 1968 II LLJ* wherein Their Lordships have observed that to be an individual dispute the union sponsoring the case of the workman must be substantially interested in the dispute,—Substantial number of employees by resolution or otherwise must indicate their intention to convert the dispute into an industrial dispute. From the ratio of this authority it is not necessary that there should be a resolution to espouse the dispute and but there should be other circumstances speaking for the same. Normally the letter from the President can be said to be a sufficient piece of evidence to support that the union is espousing the case and individual dispute becomes an Industrial Dispute.

16. Mr. Kulkarni, the Learned Advocate for the management placed reliance on *Nellai Cotton Mills Tirunelveli and Labour Court, Madurai 1985 I LLJ 95*. The facts of that case are quite different from the facts before me. It has no application. For the reasons given above I find that the dispute raised is an Industrial Dispute under section 2k of the Act.

17. Mahadevan (Exhibit-9) affirmed that on 18-9-1992 when he was in his work place he received a telephone message that he is called before the Assistant Labour Commissioner wherein a concilia-

tion proceeding was going on in respect of Industrial Dispute raised for engine overhaul department for reinstatement of the workmen who were suspended. He therefore, wanted to go for that proceeding. He asked Mr. Unni his boss to grant him leave and gave an application. Mr. Unni refused it without any reasons. He therefore, requested him to allow him to go by punching card and deducting one hour wages for which he showed readiness. He accordingly punched the card and left his place. He further stated that his wages for one hour were not paid to him.

18. Mahadevan affirmed on 28-9-1992 he was issued a show cause notice (Ex-B) to the statement of claim contending that his leaving the place was a wilful insubordination/disobedience to lawful and reasonable orders of superiors and breach of law applicable to the establishment. He replied to the same on 1-2-1992 (Ex-C). This explanation was not acceptable to the company therefore a charge-sheet Exhibit-D dated 20-10-1992 was issued to him. It is contended that this charge-sheet is not proper and legal. After perusal of the charge-sheet it can be seen that it is well worded. The date, place and time is also mentioned. It is also mentioned that when act was committed by the workman and how it amounted to misconduct contemplated under the Model Standing Orders. By the said charge-sheet he was asked to give his explanation and a departmental inquiry was initiated. I do not find any vagueness in the said charge-sheet.

19. The company constituted an inquiry committee by an order dated 12-11-1992 (Ex-E). The inquiry committee conducted a domestic inquiry against the workman and the copies of the proceedings are at (Ex. F). Mahadevan affirmed that the inquiry committee acted as a prosecutor, with an intention that the charges levelled against the workmen are proved. After perusal of the inquiry proceedings am not inclined to accept this submission. No doubt the inquiry committee had put questions to the witnesses. Those questions were put to bring on the record the clear picture of the situation. I find that the inquiry committee had every right to put such questions. I could not trace out any malafides on the part of the inquiry committee by putting those questions.

20. The workman filed his submissions (Ex-G) in respect of the proceedings which took place before the inquiry committee. The committee considered the evidence before it and had given its report. The workman received its copy (Ex. H). It is argued on behalf of the worker that report does not bear the date, therefore, the inquiry is vitiated. There is no merit in it. Because, it is submitted that this report was sent along with the forwarding letter, which is dated. Even for the sake of argument it is said that it was not along with the forwarding note that does not change the position at all. It can be said that the report is undated. That does not mean that any illegality is committed by the committee. At the most it can be said that it is an error.

21. The Learned Advocate for the worker/union argued that V. K. Mehra who issued a show cause notice, the chargesheet and the suspension order also considered the appeal which is against the Principles of Natural Justice. This submission appears to be incorrect. It can be seen that the company by its order dated 24-9-1993 (Ex-6) informed the workman that he was awarded the punishment of suspension for two days on loss of pay allowance. It is further informed that exact date of suspension will be informed to him by the concerned Assistant Engineer. Thereafter V. K. Mehra by his order dated 8-12-1993 (Ex-6/2) informed that the suspension is for 15-12-1993 and 16-12-1993 and he was asked to report on duty on 17-12-1993 as usual. His appeal is dated 12-12-1993 (Ex-6/3). It is tried to submit that when his appeal was pending the order of suspension was passed. That cannot be said to be illegality because there was no such a stage for not giving a specific dates of his suspension. It can be further seen that on 30-12-1993 P. P. Kumar Director of Engineering by his letter informed the workman that his appeal is dismissed as it is without any merit (Ex-6/4). Looking to these documents I do not find any justification in the argument which was addressed on behalf of the union. For all these reasons I find that the inquiry which was held against the workman was as per the Principles of Natural Justice.

22. The Learned Advocate for the workman argued that the findings of the inquiry committee are perverse. On the other hand the Learned Advocate for the company submitted that the committee had considered all the evidence before it and had come to the right conclusion. The inquiry proceedings are at Exhibit-F and the report of the committee is at Exhibit-H. The company has examined Unni, the boss of the workman. Pillai and Brahma who alleged to be there on the spot and on behalf of the workman Ganguli and Ramdas were examined. So far as Unni is concerned he categorically stated that Mahadevan came to him before 14 hours and asked orally, permission to go early which he refused. Thereafter, he brought an application on which he remarked not granted, as no specific reasons were mentioned for going early. He further, affirmed that he asked Mahadevan to keep the carbon copy of the application on the table for which Mahadevan stated he does not want favours (Meherbani Nahin Chahiye) and then he would punch out at 16.00 hours and go out to which Mr. Unni stated that he will not give permission to punch at 16.00 hours and go. Thereafter, Mahadevan left the section. In other words Unni gives the details of the incident on which the charge sheet is framed.

23. Pillai in categorical term stated that he did not directly involve in the conversation. However, hand Mr. Unni telling Mahadevan that he cant granted him permission, however, if he wants, he can go after punching out the card. At that time he was ten to twelve feet away from them. It is common knowledge that when such a permission is given the person is put to loss to wages, by that particular hours. In

other words it is conditional permission. It is not in dispute that Mahadevan's wages for that one hour was deducted. It is the case of Mahadevan that he was allowed by Unni to go out by punching the card by which his wages for one hour would be deducted for which he was ready. Pillai supports the case of the worker. He does not state that Unni refused Mahadevan to leave the place by punching card.

24. Brahma and Ganguli corroborates each other and states that on the date of the incident on 18-9-1992 at about 3.40. Mahadevan was asking permission from Unni to attend the R.L.C. meeting. Unni was asking him why he wants to go early. Mahadevan told him that he wants to go to the R.L.C's office to attend the meeting. Atlast Unni told Mahadevan that he can go by punching the card. In other words both these witness supports Mahadevan's case that he was allowed by Unni to go by punching the card. It means he left the place with the permission of his superior.

25. Ramdas is the witness on the point that Unni asked him to go to Mahadevan and bring the carbon copy of that application. Mahadevan tore of the application as the permission was rejected and oral permission was granted. According to him he did not have the copy of the application therefore, he did not offer the same. The testimony of Ramadas does not support the case of the company for proving the charges.

26. From the documents on the record it appears that even though Mahadevan is not a member of the managing committee he is an active member of the union. It is therefore, he was called at the office of the Regional Labour Commissioner by other members as there was a Conciliation proceeding going on in another Industrial Dispute. Logically he must be eager to attend that meeting and sought permission from Unni. The fact that his wages and one hour were deducted clearly speaks that at initial stage he must have sought permission from the officer to leave the place without getting his wages deducted. But, as Unni was not ready for that he chose the other way to support his union. From the testimony of the witnesses and on the basis of the circumstances which I have discussed above I find that the findings of the inquiry officer are perverse. In the result I pass the following order :

ORDER

1. The dispute raised is an Industrial Dispute under section 2 K of the Industrial Disputes Act of 1947.
2. The domestic inquiry which was held against the workman was as per the Principles of Natural Justice.
3. The findings of the inquiry officer are perverse.
4. The management is allowed to lead evidence to substantiate its action.

S. B. PANSE, Presiding Officer

नई दिल्ली, 9 अक्टूबर, 1997

का. आ. 2843:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार सेंट्रल रेलवे, भोपाल (एम.पी.) के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम.पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-97 को प्राप्त हुआ था।

[संख्या एल-41012/59/91-आईआर (डी.यू.)/बी. 1]
पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 9th October, 1997

S.O. 2843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway, Bhopal (M.P.) and their workman, which was received by the Central Government on 1-10-1997.

[No. L-41012/59/91-IR (D.U.)/B. 1]
P. J. MICHAEL, Desk Officer.

अनुबंध

केन्द्रीय श्रम औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर
(म.प्र.)

डी. एन. दीक्षित

पीठासीन अधिकारी

प्र. कं. सीजीआईटी/एलसी(आर) (160)/92

श्री लक्ष्मीप्रसाद आत्मज

श्री लाल राम प्रजापति

मार्फत : श्री ए. के. थापक,

ग्वालटोली, होशंगाबाद

(म.प्र.)

---प्रार्थी

वि.

मण्डल रेल प्रबंधक,

मध्य रेलवे,

भोपाल (म.प्र.)

---प्रतिप्रार्थी

अवार्ड

दिनांकित : 12-09-1997

1. केन्द्र सरकार द्वारा निम्न विवाद अधिनियम हेतु निर्देशित किया गया है।

"Whether the action of the management of DRM, Central Railway, Bhopal in terminating the Services of Shri Laxmi Prasad, MRCL w.o.f. 19-8-90 is justified? If not, what relief the workman concerned is entitled to?"

अनुसूची

2. दोनों पक्षों को स्वीकार है कि श्रमिक श्री लक्ष्मी प्रसाद, मध्य रेलवे में केजुअल लेबर था और इसका सर्विस कार्ड क्रमांक 164898 था। श्रमिक ने कई स्थानों पर काम किया। श्रमिक को पी. डब्ल्यू. आई. होशंगाबाद ने दिनांक 24-2-87 को सेवामुक्त किया। दिनांक 8-9-89 को श्रमिक के विरुद्ध विभागीय जांच प्रारंभ की गई, जिसमें यह कहा गया कि उसका सर्विस कार्ड फर्जी है और उसने धोखा देकर रेलवे में नौकरी पाई है। इसी आधार पर दिनांक 19-8-90 से श्रमिक को सेवानिवृत्त किया गया।

3. श्रमिक के अनुसार उसे सर्विस कार्ड जिला स्वास्थ्य अधिकारी, बीना ने दिया था और इस हेतु 2.00 रुपये श्रमिक ने जमा किये थे। वह सन् 1987 में, जब श्रमिक को सेवा से हटाया गया, तब उसने केन्द्रीय प्रशासनिक अधिकरण के समक्ष अपील की थी और इस अधिकरण ने श्रमिक को पुनः सेवा में लेने का आदेश दिया था। विभागीय जांच में यह सिद्ध नहीं हुआ कि श्रमिक के पास जो सर्विस कार्ड था, वह नकली और बनाबटी था। श्रमिक की प्रार्थना है कि यह घोषणा की जाए कि उसके पास जो सर्विस कार्ड है, वह सही है और इसलिए श्रमिक की सेवामुक्ति गलत है। श्रमिक चाहता है कि उसे पुनः सेवा में लिया जाए और सेवामुक्ति से अभी तक वेतन और अन्य भत्ते दिए जाए।

4. प्रतिप्रार्थी नियोजक की ओर से यह कहा गया कि उसे रेलवे की सेवा में जिस कार्ड के आधार पर लिया गया, वह नकली था। श्रमिक ने नौकरी पाने के लिए सर्विस कार्ड को नकली बनाया था—या बनवाया था। इस कार्ड के आधार पर श्रमिक को रेलवे में सर्विस करने की पात्रता नहीं थी। श्रमिक के विरुद्ध विभागीय जांच की गई और उसे अपनी रक्षा का पूरा अवसर दिया गया। जांचकर्ता अधिकारी ने श्रमिक को दोषी पाया और श्रमिक को सेवामुक्त किया गया।

5. इस न्यायालय ने दिनांक 22-04-96 को यह पाया कि विभागीय जांच में श्रमिक ने दिनांक 19-10-89 और 4-11-89 को यह लिखित प्रतिवेदन दिये हैं कि वह विभागीय जांच में भाग नहीं लेगा। इस आधार पर विभागीय जांच एकपक्षीय हुई और श्रमिक को दोषी पाया गया। श्रमिक ने स्वेच्छा से विभागीय जांच में भाग नहीं लिया। इस आधार पर इस न्यायालय ने विभागीय जांच को

वैधानिक और सही पाया। प्रथम विचारणीय प्रश्न यह है कि सर्विस-कार्ड क्रमांक 161898 किसने जारी किया। विभागीय जांच में जांचकर्ता अधिकारी ने श्रमिक से दिनांक 26-4-90 को प्रश्न क्रमांक 5 किया जिसके उत्तर में कहा है कि वह रेलवे में सर्वप्रथम मई 1983 में पहली बार कार्य निरीक्षक (दक्षिण), बीना के पास भर्ती हुआ था। प्रश्न क्रमांक 6 के उत्तर में कहा है कि उस समय उसे सर्विस कार्ड बनाकर नहीं दिया गया। प्रश्न क्र. 8 के उत्तर में कहा है कि सर्विस कार्ड क्र. 164898 उसका नहीं है। यह भी कहा है कि वह 10वीं पास है और सर्विस कार्ड क्रमांक 164898 में अंगूठा लगा है। यह भी स्वीकार किया है कि यह अंगूठा उसका नहीं है। प्रश्न क्र. 12 के उत्तर में कहा है कि यह कार्ड उसके पास कभी नहीं रहा। प्रश्न क्रमांक 13 के उत्तर में श्रमिक ने बताया है कि उसे प्रारंभ में कार्य निरीक्षक, बीना ने एक नाहू के लिए नौकरी में रखा था, इसके बाद उसे भोपाल और होशंगाबाद में काम मिला। प्रश्न क्र. 14 के उत्तर में बताया है कि उसे वर्ष 1987 में रेल पथ निरीक्षक, होशंगाबाद ने बताया था कि उसका कार्ड जाली है। प्रश्न क्रमांक 16 के उत्तर में कहा है कि सर्विस कार्ड में जो फोटो लगा है, वह उसका है, किन्तु उसे नहीं मालूम कि फोटो किस ने और कब लगाया। प्रश्न क्र. 17 के उत्तर में कहा है कि यह फोटो किसी ने रंजिशवश या ब्लैकमेल या परेशान करने के लिए लगाया है। प्रश्न क्र. 18 के उत्तर में फिर कहा है कि उसे सर्विस कार्ड नहीं दिया गया और सर्विस कार्ड क्रमांक 164898 उसका नहीं है। प्रश्न क्रमांक 19 के उत्तर में कहा है कि उसे प्रथम नौकरी सर्विस कार्ड के आधार पर नहीं मिली।

6. श्रमिक ने विभागीय जांच में दिनांक 26-4-90 को सर्विस कार्ड क्रमांक-164898 के बारे में पूर्ण अनभिज्ञता प्रकट की। इस पर लगे अंगूठे को जाली बताया और इस पर जो श्रमिक का फोटो छिपका था उसे तो स्वीकार किया किन्तु स्पष्टीकरण यह दिया कि फोटो किसी ने रंजिशवश सर्विस-कार्ड में लगाया है। श्रमिक का यह कथन पूर्णरूप से मिथ्या और गैर-जिम्मेदाराना है और उसका स्पष्टीकरण बहुत ही कमजोर और अस्वाभाविक है। यह संभव प्रतीत नहीं हुआ कि श्रमिक का फोटो कोई प्राप्त कर उसके सर्विस कार्ड में चपकाकर दें और इसका ज्ञान श्रमिक को न हो। ऐसा प्रतीत होता है कि श्रमिक बिना सर्विस कार्ड के रेलवे में नौकरी करना चाहता है सर्विस कार्ड जाली है।

7. श्रमिक के विरुद्ध जो विभागीय जांच की गई और उसके आधार पर दिनांक 19-8-90 से सेवामुक्ति किया गया, वह वैधानिक है। श्रमिक को पूरा अवसर अपना पक्ष रखने का दिया गया था।

8. श्रमिक ने स्वीकार किया है कि सर्विस कार्ड क्र. 164898 उसका नहीं है और वह बिना सर्विस कार्ड के रेलवे में नौकरी करता था। नियमों के अनुसार रेलवे

में नौकरी के लिये सर्विस कार्ड का होना आवश्यक है। ऐसी स्थिति में श्रमिक को रेलवे में सर्विस करने की पात्रता नहीं है।

9. प्रारंभ से ही प्रतिप्रार्थी का यह कहना है कि सर्विस कार्ड क्र. 164898 फर्जी है। श्रमिक यह नहीं बता पाया कि उसके पास यह कार्ड कैसे आया। इसी कार्ड के आधार पर उसे रेलवे में नौकरी मिली और कई जगह स्थानान्तरण हुआ। यह सिद्ध हो गया है कि श्रमिक ने फर्जी कार्ड के आधार पर रेलवे में नौकरी की।

10. उपरोक्त परिस्थितियों में श्रमिक का रेलवे सर्विस में रहना अनर्हित में नहीं है। इस विवाद का अधिनिर्णय इस प्रकार किया जाता है कि मध्य रेलवे, भोपाल के द्वारा श्रमिक लक्ष्मीप्रसाद की सेवामुक्ति दिनांक 19-8-90 से विधिवत और नियमों के अनुसार है।

11. अधिनिर्णय आज दिनांक 12-09-1997 को लिखा जाकर केन्द्रीय सरकार को प्रकाशनार्थ भेजा जाता है।

डी. एन. दीक्षित, पीठासीन अधिकारी

नई दिल्ली, 9 अक्तूबर, 1997

का.आ.० 2844:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.बी.आई., विजयवाड़ा के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण-1, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-97 को प्राप्त हुआ था।

[संख्या एल-12011/324/87-आई.आर. (बी.आई.)]

पी० जे० माईकल, डेस्क अधिकारी

New Delhi, the 9th October, 1997

S.O. 2844.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal I, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.B.I., Vijayawada and their workman, which was received by the Central Government on 8-10-1997.

[No. L-12011/324/87-IR (B. I.)]

P. J. MICHAEL, Desk Officer.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I.
AT HYDERABAD.

PRESENT :

Shri V. V. Raghavan, B.A., LL.B., Industrial Tribunal-I.

Dated : 21st Day of August, 1997.

INDUSTRIAL DISPUTE NO. 7/1997.

BETWEEN :

General Secretary, State Bank Employees Union
Peddbhotlavari Street, Vijayawada—
520 002. Petitioner.

AND

Regional Managar, Regions—III, S. B. I.
Regional Office, Labbipet, Vijayawada—
520 010. Respondent.

APPEARANCES :

None for the Petitioner.

Shri B. G. Ravindra Reddy, Advocate for the
Respondent.

AWARD

The Government of India, Ministry of Labour
New Delhi by its Order No. L-12011/324/87-IR
(B.I.), dated 4-2-1997, referred the following dis-
pute under section 10(1)(d) and 2-A of Industrial
Dispute Act, 1947 for adjudication.

“Whether the action of the management of
S.B.I., Vijayawada, in terminating the ser-
vices of Shri Lingamsetti Gowri Shankar is
legal and unjustified? If not, to what rel-
ief the workman are entitled?”

(2) After receipt of the said reference, this Tribu-
nal issued a notice to both parties and served upon
them. On 21-7-1997 the Respondent appeared and
represented that the workman is reinstated into
service in Chatrayi Branch. The Secretary of the
Union did not appear in court on 21-7-1997. Notice
was sent to the concerned workman himself. He
also did not appear in court on 21-8-1997. In view
of the representation made by the Respondent.
Therefore the I. D. is closed.

Given under my hand and the seal of this Tribu-
nal, this the 21st day of August, 1997.

V. V. RAGHAVAN, Industrial Tribunal-I.

नई दिल्ली, 13 अक्तूबर, 1997

का. आ. 2845 :—औद्योगिक विवाद अधिनियम,
1947 (1947 का 14) की धारा 17 के अनुसरण में,
केन्द्रीय सरकार पश्चिम रेलवे, अहमदाबाद के प्रबन्धतंत्र के
संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध
में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक
अधिकरण, कानपुर के पंचपट को प्रकाशित करती है जो
केन्द्रीय सरकार को 13-10-97 को प्राप्त हुआ था।

[संख्या एल-41011/37/95-आई. आर. (बी.-I)]

पी. जे. माईकल डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2945.—In pursuance of Section 17 of the Industrial
Disputes Act, 1947 (14 of 1947), the Central Government here-
by publishes the Award of the Central Government Industrial
Tribunal, Kanpur as shown in the Annexure, in the industrial
dispute between the employers in relation to the manage-
ment of Paschim Railway, Ahmedabad and their workman,
which was received by the Central Government on the
13-10-97.

[No. L-41011/37/95-IR B.I.]

P. J. MICHAEL, Desk Officer.

ANNEXURE

BEFORE B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT DEOKI PALACE ROAD PANDU
NAGAR KANPUR

Industrial Dispute No. 38 of 1997

In the matter of dispute between :

Divisional Secretary
Paschim Railway Karmchari Parishad
Ahmedabad.

AND

Executive Engineer (C&S)
Paschim Railway
Near Plo No. 4
Railway Station Kalupur
Ahmedabad.

AWARD

1. Central Government Ministry of Labour New Delhi vide
its Notification No. L-41011/37/95-I.R.(B), dated 5-2-97 has
referred the following dispute for adjudication to this Tribunal:

Whether the demand of the union for releasing the pay-
ment of wages for the period from 24-1-89 to
18-2-89 in respect of 48 casual labour/petitioners
involved in the O.A. No. 35/89 before CAT,
Ahmedabad is just and proper? If so, to what rel-
ief these casual labour are entitled to?

2. It is unnecessary to give the details of the case as after
sufficient service the concerned workmen has not filed claim
statement. Hence the reference is answered against the work-
men for want of prosecution and proof and they are
not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer.

नई दिल्ली, 13 अक्तूबर, 1997

का. आ. 2846 :—औद्योगिक विवाद अधिनियम,
1947 (1947 का 14) की धारा 17 के अनुसरण में,
केन्द्रीय सरकार नोर्दन रेलवे, लखनऊ के प्रबन्धतंत्र के
संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में
निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक
अधिकरण, कानपुर के पंचपट को प्रकाशित करती है,
जो केन्द्रीय सरकार को 13-10-97 को प्राप्त हुआ था।

[सं. एल-41012/7/82-डी 2 (बी)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2846.—In pursuance of Section 17 of the Industrial
Disputes Act, 1947 (14 of 1947), the Central Government
hereby publishes the Award of the Central Government
Industrial Tribunal, Kanpur as shown in the Annexure, in
the industrial dispute between the employers in relation to the
management of Northern Railway, Lucknow and their work-
man, which was received by the Central Government on the
13-10-97.

[No. L-41012/7/82-D II(B)]

P. J. MICHAEL, Desk Officer.

ANNEXURE

Before Shri B. K. Srivastava Presiding Officer Central Government Industrial Tribunal Cum Labour Court Deoki Palace Road Pandu Nagar Kanpur

Industrial Dispute No. 48 of 1983
In the matter of dispute between :
Zonal Working President
Uttar Railway Karmchari
Union, 96/196 Roshan Bajaj Lane
Ganesh Ganj Lucknow.

AND

Divisional Railway Manager
Northern Railway
Lucknow.

Appearance : Shri Hamid Quraishy for the Management

Shri D. P. Awasthi for the workman

AWARD

1. Central Government Ministry of Labour New Delhi vide its notification No. L-41011(7)/82-D.II(B) dated 10-01-83 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the Railway Administration in relation to their Loco-Shed, Northern Railway, Lucknow in terminating the services of the following 207 workers as in annexure w.e.f. 4-9-81 is justified? If not, to what relief the said workmen are entitled?

2. It will appear that the instant reference was claimed by 207 workmen headed by Abdul Haleem. All these workmen had challenged their respective termination from service as khallasi of the opposite party Northern Railway, having worked in Lucknow Loco Shed. This award is being contested. My learned predecessor vide award dated 1-1-87 and published on 19-2-87 held that termination of 28 workmen is bad in law. Hence order for reinstatement was passed.

3. Railway filed writ petition No. 12743 of 1987 before Hon'ble High Court against this award. The Hon'ble High Court vide judgement order dated 5-2-90 allowed the writ petition in part. It was observed by the Hon'ble High Court that tribunal had recorded finding that 28 workmen had completed 240 days accordingly the benefit of Section 25F I.D. Act was rightly given to them. It was further observed that this Tribunal had not recorded any finding in respect of remaining workmen as to whether they have completed 240 days in a year or not. Hence the reference has been remitted to this Tribunal with the direction to reexamine the cases of remaining workmen determine if they have completed 240 days in a year or not. After remand of the case it lingered on. Parwej Alam and Virender Singh were again examined on 8-8-96. Parwej Alam has admitted that all the workmen except 54 persons have been taken back in service. The list of whom is given herewith. It was pointed out by the management that these 54 persons are fictitious persons. In view of this specific challenge the identity of 54 persons, it was all the more necessary for the workmen to have produced these persons before the Tribunal. In its absence in my opinion, oral evidence of Virender Singh and Parwej Alam will also not prove their case regarding breach of Section 25F I.D. Act. In this way the claim remainin 54 person is not proved.

4. Accordingly my award is that apart from 28 person whose termination has been held to be bad in law by the Hon'ble High Court the claim of remaining workmen except 54 persons has become infructious as they have been taken back in service. As regard the claim of other 54 person they are not entitled for any relief for want of their identity and proof.

B K SRIVASTAVA Presiding Officer.

नई दिल्ली, 13 अक्टूबर, 1997

का. ग्रा. 2847 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधकों के संबंध

नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-97 को प्राप्त हुआ था।

[सं. एल—12012/55/95—आई. ग्रा. वी. 2]

सनातन, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2847.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on the 9-10-97.

[No. L-12012/55/95-IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 90 of 1995

In the matter of dispute between :

General Secretary,
U. P. Bank Employees Union,
C/o 10/2 Patrika Marg, Civil Lines,
Allahabad.

AND

Regional Manager,
Punjab National Bank,
Jahangirabad District Bulandshahar.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification no. L-12012/55/95-I.R.B. 2 dated 17th July, 1995, has referred the following dispute for adjudication to this Tribunal—

"Whether the action of the management of Punjab National Bank Bulandshahar in dismissing Sri Jagdish Kumar Khangwal clerk cashier from service w.e.f. 19-1-93 is legal & justified? If not, what relief is the said workman entitled to?"

2. The case of the concerned workman Jagdish Kumar Khangwal is that he was appointed as clerk-cum-cashier on 21-11-83 at Jahangirabad branch in District Bulandshahar of the opposite party Punjab National Bank. He was promoted as teller in 1987. He was served with a chargesheet on 7-6-91 copy enclosed. One Anil Bhan was appointed as enquiry officer. After completing enquiry is submitted his report on 17-12-92. Agreeing with this report the disciplinary authority issued a show cause notice on 31-12-92, which was followed by order of dismissal dated 29-1-1993. It is alleged that his enquiry report is bad in law inasmuch as enquiry was not fairly and properly held. Further on merits it was denied that he had indulged in any forgery or wrongful withdrawals of money of the customers. In the reply the bank alleged that enquiry was fairly and properly held. It was reiterated that various acts of commission as formulated in chargesheet are based on true facts.

3. In the rejoinder nothing new has been said. On the pleadings of the parties a preliminary issue regarding domestic enquiry was framed. Vide finding dated 21-2-97, it was held that enquiry was fairly and properly held and the case was listed for arguments.

4. The authorised representative for the concerned workman has requested that a lenient view may be taken whereas the opposite party bank has referred to the case of 1996 Lab IC 1059 Municipal committee Bahadurgarh Versus

Kishan Behari and others (SC), in which it has been held that in such a case no leniency should be taken specially it is a case of embezzlement. Relying upon this authority I am of the opinion that nothing sort of dismissal would be the appropriate punishment for the present establishment misconduct. It does not call for any leniency. Hence I am of the opinion that in this case the punishment is quite commensurate to the misconduct. Accordingly my award is that the action of the management in dismissing the concerned workman is justified and the concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

Regional Office

(Bulandshahar)

PNB : STE : LAC :

7-6-91

Shri J. K. Khangwal
Clerk/cashier

BO : Jahangirabad

CHARGE SHEET

While working as teller at BO : Jahangirabad, it is alleged that you perpetrated fraud for pecuniary gains in the Saving Fund a/c no. 9660 of Smt. Jagwati as under :—

1. You withdraw Rs. 2900/- from SF a/c no. 9660 on 03-9-90 by forging signature of account holder on withdrawal slip.
2. You created a fake credit entry of Rs. 10,000/- on 1-10-90 in the SF ledger sheet of a/c no. 9660 of Smt. Jagwati Devi and in the teller card the date of this fake entry has been shown as 4-10-90.
3. You withdraw Rs. 3000/- each on 11-10-90, 12-10-90 and 16-10-90 from the above SF a/c no. 9660 by forging signatures of account holder from withdrawal slip.
4. The opening balance in the above SF a/c no. 9660 on 7-12-90 was Rs. 609.75 when the account holder presented the withdrawal slip for Rs. 2000/- for payment. You deposited Rs. 1500/- on the same date in order to conceal detection of frauds were perpetrated by you.
5. You have admitted having committed the above frauds vide your letter dated 10-1-91 and you deposited Rs. 10400/- in the SF account no. 9660 on 12-1-91 which you had frequently withdrawn on different dates as stated hereinabove.

In this way, you fraudulently withdraw Rs. 11900/- from the SF a/c no. 9660 against forged withdrawal slips and against fake credit entry of Rs. 10,000/-.

You, thus, perpetrated fraud for pecuniary gains which constitutes gross misconduct in terms of clause 19(d) of chapter 18 of Bipartite Settlement.

You are advised to submit your statement of defence within a period of 15 days on receipt hereof. In case no reply is received within the stipulated period, it will be presumed that you have nothing to say in your defence and admit the charge and further decision will be taken ex-parte, against you.

Sd/-

REGIONAL MANAGER
(DISCIPLINARY AUTHORITY)
2755 GI/97—9

नई दिल्ली, 13 अक्टूबर, 1997

का. भा. 2848 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओरिएण्टल बैंक ऑफ कॉमर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-97 को प्राप्त हुआ था।

[सं. एच-12012/95/86—आई. प्रार. बी. 2]
सनातन, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2848.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Oriental Bank of Commerce and their workman, which was received by the Central Government on the 9-10-97.

[No. L-12012/95/86-IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—
CUM-LABOUR COURT, PANDU NAGAR, DEOKI
PALACE ROAD, KANPUR

Industrial Dispute No. 3 of 1988

In the matter of dispute between .

Nankoo Lal,
s/o Bhola,
Village Saradhya Raah,
Post Office Baderia,
District Sitapur.
AND
Assistant General Manager,
Oriental Bank of Commerce,
Naval Kishore Road, Hazratganj,
Lucknow.

Appearance :

V. Singh for the workman and Jagat Arora for the Management.

1. Central Government, Ministry of Labour, vide its notification no. L-12012/95/86-D.IV (A) dated 6-1-1988, has referred the following dispute for adjudication to this tribunal—

"Whether the action of the management of Oriental Bank of Commerce in terminating the services of S/Sri Nanku Lal, Sushil Kumar Shukla, Surya Mohan Srivastava, Sanjay Nayar, and Sri Shanker Khandelwal and not considering them for further employment while recruiting fresh hands under sec. 25H of I.D. Act, is justified? If not, to what relief the concerned workmen are entitled?"

2. In this reference there are five workmen. All of them have filed their separate claim statement.

3. The case of Nanku Lal is that he was engaged as a peon at Sitapur branch of the opposite party Oriental Bank of Commerce on 27-8-84 for a period exceeding upto 23-2-85. The case of Sushil Kumar Shukla is that he was engaged as a peon at Mall Road Branch of the opposite party from 20-2-81 to 25-5-81. The case of Surya Mohan Srivastava

is that he was engaged as a clerk at Mall Road Branch from 16-7-83 to 15-12-83, for a fixed period. The case of Sanjay Nayar is that he was engaged as a clerk at Mall Road Branch Kanpur of the opposite party bank from 19-2-83 to 31-7-83. The case of Shanker Khandelwal is that he was engaged as a peon from 7-9-87 to 23-12-87 after holding interview. However, he has not given the place of engagement in the claim statement.

4. The case of all the concerned workman further is that they were engaged on a permanent post on temporary basis. There has been breach of section 25G & H of I.D. Act.

5. The management has filed separate written statement but their only case is that the concerned workman were engaged for a fixed period in leave vacancies. It was specifically denied that Sri Shiv Shanker Khandelwal was induced in service after interview.

6. In the rejoinder it has been denied that the concerned workmen were engaged in leave vacancies. It may be mentioned that only Sushil Kumar Shukla and S. N. Srivastava have filed affidavits and had submitted themselves for cross-examination. It is true that Sanjay Nayar and Nanku Lal had filed affidavits but they did not submit themselves for cross-examination. Shiv Shanker Khandelwal had never entered into witness box nor had filed any affidavits. Thus as far as Sanjay Nair Nanku Lal and Shiv Shanker Lal are concerned, the reference is answered against them for want of proof.

7. As regards Sushil Kumar Shukla, Surya Mohan Srivastava it has to be seen as to whether they were engaged in leave vacancy.

8. None of the two witnesses S. K. Shukla and S. N. Srivastava in their affidavits have denied the fact that they were not engaged in leave vacancies. However, in their cross-examination they have denied this fact. On the other hand R. K. Shukla, M.W. 1, M. K. Dhawan M.W. 2 and K. P. Sinha, M. W. 3 have given evidence after seeing the record that these two workmen were engaged in leave vacancies. They have filed papers Ext. M-1 to M-4. In view of above evidence of management, I accept the evidence of the management as it is based on perusal of documents and also there is no specific denial in the examination in chief by the workmen, and hold that the two concerned workmen were engaged in leave vacancies. As such they are not entitled for benefit of any of the provisions of Industrial Disputes Act.

9. In view of above discussions my award is that the termination of concerned workmen are not bad in law and they are not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1997

का. प्रा. 2849 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-97 को प्राप्त हुआ था।

[संख्या एल—12012/129/92—आई. आर. बी. 2]
सनातन, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2849.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 9-10-1997.

[No. L-12012/129/92-IR (B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT PANDU NAGAR, DEOKI
PALACE ROAD, KANPUR

Industrial Dispute No. 97 of 1992

In the matter of dispute :

BETWEEN

Kuldeep Narain Lal

34 Nehru Nagar Agra.

AND

Regional Manager
Union Bank of India
Regional Office
Bareilly.

APPEARANCE :

B. P. Saxena—for the Workman and

S. N. Mehra—for the Management Bank.

AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/129/92-IR (B-III) dated 31-8-92, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Union Bank of India Bareilly in dismissing Shri Kuldeep Narain Lal Accounts-cum-Cash Clerk w.e.f. 29-8-86 is legal and justified? If not, to what relief is the workman entitled?

2. Although this case was reserved for finding on preliminary issue regarding fairness and propriety of domestic enquiry final award is given as the chargesheet, the very foundation of enquiry and resultant consequent order of dismissal is based on this chargesheet and the same is going to be found as without jurisdiction and illegally.

3. Admittedly Kuldeep Narain Lal was working as Accounts cum-Cash Clerk at Sarendhi Branch of the opposite party Union Bank of India. One Ravindra Raj an officer of Industrial Relation Department of Central Office issued a chargesheet dated 9-5-87 Ext. M-1 which runs as under—

While working as Head Cashier at Sarendhi Branch, he fraudulently withdrew a total sum of Rs. 500 from S.B. A/c of Sri Janak Singh at Sarendhi Branch on different dates, the modus operandi is as under—

That Sri Janak Singh had deposited an amount of Rs. 7,000 in his S/B A/c 629 at Sarendhi Branch. Sri K. N. Lal obtained the pass book from Sri Janak Singh on the pretext of completing the same and put a remark on the ledger folio to the effect duplicate pass book issued. He also obtained the thumb impression of Sri Janak Singh on the blank withdrawal form with ulterior motive. Thereafter, on the following three occasions, he withdrew a total sum of Rs. 8,500 of Sri Janak Singh—

12-5-86	Rs. 2,000
20-5-86	Rs. 3,000
6-8-86	Rs. 3,400

On these days no entry regarding issuance of withdrawal form to Sri Janak Singh was made in the withdrawal form register by Sri K. N. Lal. Besides, on 10-10-80 Sri K. N. Lal wilfully posted a withdrawal of Rs. 1,000 in the credit column and S.B. A/c No. 629 and enhanced the balance of Rs. 1,000. As a result of the aforesaid operations in the account, the account was overdrawn by Rs. 1,503.

Sri K. N. Lal has confessed his guilt in writing by his letter dated 3-12-86.

Sri Lal is hereby informed that aforesaid acts on his part constitute the following gross misconducts and he is hereby charged of the same.

1. Doing acts prejudicial to the interest of the Bank involving the Bank in a serious loss.

He also appointed O. P. Chopra Manager, Enquiry Cell of the Regional Manager's Office, New Delhi, as Enquiry Officer by order dated 9-5-87. Yet another supplementary chargesheet dated 7-7-87 was given to the concerned workman which runs as under—

That Sri M. K. Agrawal opened an account No. 706 on 25-8-83 with an initial deposit of Rs 20,000 with Sarendhi branch. He did not operate his account since opening and on 23-2-87 he requested to close the same and transfer the proceeds thereof to his S.B. Account at Malpura Branch. On examining the said account it has been found that the prospective ledger folios pertaining to his loan account were torn out and an amount of Rs. 31,462.10 paise was withdrawn by various occasions as shown below from his said S.B. Account which was thereafter cleared on 8-12-86.

26-9-86	Rs. 15,000
29-9-86	Rs. 15,000
8-12-86	Rs. 1,462.10

On further examining it was learnt that withdrawal form were posted and passed for payment by Sri Lal who was working as cashier at Sarendhi Branch at that time. All the three withdrawals were also cancelled by him under the signature though the branch manager Sri S. C. Singhal was present at the branch.

On 8-12-86 Sri Lal closed the account by writing please close the account on the reverse side of the said withdrawals. He also substituted the original paying in slip for Rs. 20,000 by a duplicate one bearing the stamp of 28-6-85. Sri Lal has confessed having withdrawn Rs. 31,462.10 from the account of Sri M. K. Agrawal, in writing.

Sri Lal thus committed a fraud of Rs. 31,462.10 paise in the account No. 706 of Sri M. K. Agrawal Sri Lal is hereby informed that the aforesaid acts on his part constitute the following misconduct and he is hereby charged of the same—

Doing acts prejudicial to the interest of the bank involving the bank in serious monetary loss.

O. P. Chopra was once again appointed Enquiry Officer in this matter. The concerned workman was also placed under suspension on 10-6-87. After completing enquiry, report was submitted on 18-8-87. This report also included a show cause notice by O. P. Chopra for proposing dismissal by way of punishment. Ultimately, the concerned workman was dismissed from service on 25-8-87 by O. P. Chopra. Appeal preferred by the concerned workman was also dismissed. Feeling aggrieved the concerned workman has raised the instant industrial dispute.

4. In the claim statement the fairness and propriety of domestic enquiry was questioned in a variety of ways. The main flank of attack is that chargesheet was not issued by a competent person and further Enquiry Officer was not appointed by a duly appointed disciplinary authority. Hence consequent enquiry resulting dismissal order is bad in law. In any case it is alleged that O. P. Chopra could not act as disciplinary authority hence punishment order is bad having been passed by him.

5. From the above pleadings as well as from a review of record it will be evident that the two chargesheets were issued by Ravindra Raj an Officer of Industrial Relation Department of the bank at Central Office. Further by order dated 21-5-87 he had appointed O. P. Chopra Manager Enquiry Cell Regional Officer New Delhi as Enquiry Officer. He was also directed to impose punishment according to various provisions of Bipartite Settlement after charges were found to be proved.

6. The contention of authorised representative of the concerned workman is that in the first place Ravindra Raj could not act as disciplinary authority and consequently chargesheet issued by him is without jurisdiction. The concerned workman has also filed copy of bank's circular No. 2309 dated 28-5-81 and further copy of bank's circular dated 21-5-87 in which the Chief Executive of the bank has appointed disciplinary authorities. It inter alias says that in respect of the officials working in branch extension counter following persons shall work as disciplinary authority—

Branch Manager under whom the employee is working/
authority above the branch manager/Asst. Superintendent in Zonal Office/Authority above Asstt. Superintendent in Zonal Office/Personnel Officer/ Superintendents in department of personnel at Central Office/authority above superintendent in the department of personnel at Central Office.

It is evident that apart from the officer of the branch upto Zonal Office Officer or superintendent of department of personnel at Central Office have also been empowered to act as disciplinary authority. Ravindra Raj who had issued chargesheet has not disclosed his designation in the chargesheet. However, it is revealed from the chargesheet that he is some officer of industrial relation department of Central Office. Opposite party bank has filed papers to show that Ravindra Raj was working as Manager in industrial relation cell. Department of Personnel at Central Office. Simply because his designation has not been mentioned at the foot of chargesheet, it will not render chargesheet invalid. The other contention of the authorised representative is that only superintendents of the department of personnel at Central Office have been authorised by Chief Executive to act as disciplinary authority. Manager of the Central Office has not been authorised. Hence Ravindra Raj acting as Manager could not derive any authority from the above mentioned circular dated 21-5-81. The bank has also filed copy of circular No. 2954 dated 15-4-86 by which superintendents scale III has been redesignated as Manager. Hence, the management wants that the superintendents as used in the letter dated 21-5-81, should be read as Manager. The authorised representative of the concerned workman has submitted that Dy. General Manager could not change such designation for the purposes of acquiring power to act as disciplinary authority. He means to argue that in the letter dated 25-5-81, itself the Chief Executive himself ought to have been passed such orders clarifying that superintendents should be read as managers as according to para 19.14 of the first bipartite settlement only Chief Executive has to designate and none else. I find force in this contention and hold that in the absence of any specific orders having been passed by the Chief Executive by means of circular No. 2954 dated 15-4-86, manager of personnel department at Central Office will not acquire any right to act as disciplinary authority. Consequently the chargesheet issued by Ravindra Raj acting as manager of department of personnel at Central Office will be without jurisdiction.

7. The second contention of the authorised representative of the concerned workman is still more forceful. It has already been shown that only authorities enumerated in letter dated 25-5-81 can act as disciplinary authority. Ravindra Raj by order dated 21-5-87 has appointed O. P. Chopra as disciplinary authority as well. He is a manager of enquiry cell R. M. Office New Delhi. This region does not cover the region of the concerned workman. Hence, according to circular dated 25-5-81 he could not act as disciplinary authority. I am further of the view that Ravindra Raj acting as disciplinary authority could not redelegate the authority of disciplinary authority to O. P. Chopra. If O. P. Chopra had submitted his report, Ravindra Raj alone should have acted as disciplinary authority. Once he had assumed authority as disciplinary authority by issuing chargesheet it was not open to him to have transferred that authority to O. P. Chopra by letter dated 21-5-87. Consequently exercise of powers of disciplinary authority by O. P. Chopra is without jurisdiction and as such is bad in law. According to the order of dismissal passed by O. P. Chopra is liable to be set aside. Thus the impugned order of punishment by way of dismissal has been passed by disciplinary authority having no jurisdiction. My award is that order of dismissal of the concerned workman is void and as such is bad in law. Consequently the concerned workman is entitled for reinstatement with back wages.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1997

का. प्रा. 2850 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-97 को प्राप्त हुआ था।

[संख्या एल—12012/180/94/—आई. प्रार. (बी. II)]
सनातन, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2850.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 9-10-1997.

[No. L-12012/180/94-IR (B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—
CUM-LABOUR COURT PANDU NAGAR, DEOKI
PALACE ROAD, KANPUR

Industrial Dispute No. 100 of 1994

In the matter of dispute :

BETWEEN

Secretary, Union Bank Staff Association
37/44 C Dipak Talkies Bans Phatak Varanasi.

AND

Regional Manager Union Bank of India
Regional Office, Taksal Theatre Building,
Varanasi.

APPEARANCE :

B. P. Saxena—for the Union and

S. N. Mehra—for the Management.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12012/180/94-I.R. B-II dated 15-11-97, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Union Bank of India, Varanasi in stopping the payment of special Allowance to Sri D. L. Gujrati, Assistant Head Cashier is justified? If not, what relief is the said workman entitled to?

2. There is no dispute that in the year 1973, there were two separate categories in clerical cadre in the opposite party bank viz clerks and cashiers. The concerned workman D. L. Gujrati was appointed as a clerk on 29-9-73. In 1988, the concerned workman applied for the post of Head Cashier. Orders were passed for working him as Assistant Head Cashier on 9-8-89 and he took charge on 16-8-89. From that date special allowance was given to him. Thereafter, w.e.f. 8-9-90 he was not assigned the duties of assistant head cashier. Instead it was assigned to some one else and his special allowance was stopped. Feeling aggrieved he has raised the instant industrial dispute. It is alleged that the

management had no right to deprive the concerned workman from doing the work of Assistant Head Cashier and consequently he could not be deprived of special allowance. This right is based on letter dated 9-8-89 and further because he was appointed as special head cashier on permanent basis.

3. The opposite party has filed reply in which the bank has itself relied upon letter dated 9-8-89 in depriving the concerned workman of the special allowance. It is also denied that the concerned workman was promoted as Assistant Head Cashier on permanent basis. The concerned workman was actually entitled for such special allowance when such duties were taken from him according to terms of bipartite settlement.

4. In the rejoinder, nothing new has been said.

5. Thus from the pleadings of the parties, it will be evident that both party reply upon the letter dated 9-8-89. It is Ext. W-1 on record. It reads as under—

With reference to his application dated submitted in response to our circular letter No. DP : ZO : LKO 126 dated 29-11-88, Sri D. L. Gujrati is informed that it is decided to post him as assistant head cashier at Varanasi (M) branch with effect from 16-8-89.

As Assistant Head Cashier we will be required to assist the Head Cashier/Officer in charge, cash department in looking after and checking the work of clerks in the cash department besides his normal duties in the clerical cadre as may be assigned to him from time to time by the branch manager/officer in charge, cash department in his discretion.

As long as he is required to perform the special functions as stated hereinabove he will be entitled to a special allowance for Assistant Head Cashier as provide for in the bipartite settlement from time to time. However, he will start performing the duties as Assistant Head Cashier at Varanasi (Main) Branch.

5. In para (1) of this letter the concerned workman has not been promoted. Instead he has been posted as Assistant Head Cashier w.e.f. 16-8-89. In para (2) of the letter the details of work which he is supposed to do have been given. In the third para it has been specifically stated that as long as he is required to perform the special functions as stated above he will be entitled for special allowance. Thus the tenor of this letter would indicate that the concerned workman was never promoted as Assistant Head Cashier on permanent basis. Hence the claim of the concerned workman on this basis is not sustainable. Further letter does not give absolute right to the concerned workman to discharge the function of Assistant Head Cashier alone. Option has been left with the management to take work of Assistant Head Cashier with him or not. His entitlement for Head Cashier allowance is subject to taking work from him of Assistant Head Cashier. If the management chooses not to take work of Assistant Head Cashier with him he cannot force the management to do so. Even this Tribunal has got no right to question the wisdom of the management while deciding to take work from the concerned workman as Assistant Head Cashier or not.

6. Thus I am of the view that from this letter the concerned workman does not get any absolute right to get special allowance. Instead it is conditional one and if the management has proceeded not to take work of Assistant Head Cashier from him certainly he will not be entitled for any special allowance. Hence my award is that as the management has chosen not to take work of Assistant Head Cashier from him he is not entitled for special allowance. Consequently the concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1997

का. प्र. 2851 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-97 को प्राप्त हुआ था।

[संख्या एल—12012/187/95—आई. प्रार. (बी. 2)]

सनातन, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2851.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 9-10-1997.

[No. L-12012/187/95-IR (B-II)]

SANATAN, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT DEOKI PALACE ROAD PANDU
NAGAR KANPUR

Industrial Dispute No. 116 of 1996

In the matter of dispute :

BETWEEN

Secretary
P.N.B. Employees Union
Varanasi Unit
Laharaveer Varanasi.

AND

Regional Manager
Punjab National Bank
R.O. Cantt. Varanasi.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-12012/187/95 dated 26-11-96 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Punjab National Bank in rejecting the LFC Bill dated 2-3-91 of Rs. 8,496 submitted by Sri S. A. Khan, an employee of Nichi Bagh Branch, Varanasi is justified ? If not, to what relief the workman is entitled ?

2. It will be apparent from the above reference that it relates to the claim of Rs. 8,496 as LFC Bill. The opposite party bank in the statement has submitted the following reply :

"The matter has been carefully considered and re-examined at by competent authorities of bank and in consequence thereof bank is principally agreed and willing to pay the process of T.A. Bill in question as per his entitlement."

From the above it will be evident that bank will be willing to them towards the claim of LFC of the concerned workman was not disclosed. Hence the Tribunal has asked to opposite party bank to give the exact amount which is due according to them towards the claim of LFC of the concerned workman. In compliance of this direction the bank has submitted statement on 4-7-97 informed that a sum of Rs. 13,138.59 is due. It exceeds much more than what has been claimed in the reference.

3. In view of above admitted claim my award is then the concerned workman is entitled to Rs. 13,138.39 towards LFC.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1997

का.प्र. 2852 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंधित नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-97 को प्राप्त हुआ था।

[संख्या एल-12012/236/95-आई.प्रार. (बी-2)]

सनातन, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2852.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 9-10-1997.

[No. L-12012/236/95-IR (B-II)]

SANATAN, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT DEOKI PALACE ROAD PANDU
NAGAR KANPUR

Industrial Dispute No. 39 of 1996

In the matter of dispute :

BETWEEN

General Secretary
P.N.B. Employees Congress
S-581, Yashoda Nagar,
Kanpur

AND

Regional Manager,
Punjab National Bank
Birhana Road Kanpur.

APPEARANCES :

AWARD

Shri V. P. Srivastava—for the workman.

Shri S. Kapoor—for the Management.

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-12012/236/95-IR (B-II) dated 22-3-96 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Punjab National Bank, Kanpur in removing Shri P. K. Saraswat, Clerk/Godown Keeper from field duty and posting him in Bidhnu Branch during the pendency of conciliation proceedings is legal and justified ? If not, to what relief is the said workman entitled ?

2. The case of the concerned workman Pradeep Saraswat that he was working as Clerk-cum-Godown Keeper at Unnao Branch of the opposite party Punjab National Bank. He is the President of registered Trade Union P.N.B. Employees Congress, having its office at Kanpur. He made a demand for his posting at Kanpur. Instead of Posting at Kanpur he was transferred to Bidhnu Branch of the opposite party in Distt. Kanpur on 24-7-92. It is further alleged that the workman was required to perform field duties which he did. On 7-6-94 the Regional Manager of the opposite party Bank of Kanpur R. A. Kiny passed following order which is Ext. W-2 on record :

With reference to our letter No. RMR/PF/EST/3030 dated 4-11-92 on above subject you are hereby further directed to utilise the services of Shri P. K. Saraswat C/GK on field duty only, permanently, till he is posted in your branch. This order is irrevocable till his posting in BO : Bidhnu of the Bank.

In compliance of this order the concerned workman performed his duties. Subsequently one Mehra replaced R. A. Kiny as Regional Manager. He had made up his mind to change the duty of applicant. Hence on 16-12-94 vide Ext. W-58 the concerned workman complained to RLC (C) Kanpur. Still the management has changed the duties of the concerned workman by order dated 15-12-94. It is alleged that his order dated 4-11-92 making permanent field duty of the concerned workman is a condition of service which could not be changed without complying with provision of Section 9-A I. D. Act and permission of RLC (C) Kanpur before whom complaint was lodged.

3. The opposite party has filed reply in which it has been denied that R. A. Kiny had ever passed any order on 4-11-92 as alleged by the concerned workman. It is a forged document. In any case change in assignment of duties is not condition of service. Hence there was no need to comply with Section 9-A I. D. Act and further seek permission of RLC (C) Kanpur.

4. In the rejoinder it has been retreated that Ext. W-2 was issued by R. A. Kiny the then Regional Manager.

5. In support of his case the concerned workman examined himself as Pradeep Saraswat as WW (1) where as the management has examined Subhash Chand Bhatia MW (1), Tara Chand Suchdeva MW (2) and D. R. Kushwaha MW (3). Further workman has filed Ext. W-1 to Ext. 153 whereas opposite party Bank filed Ext. M-1 to M-18.

6. The first point which needs consideration is as to whether R. A. Kiny the then Regional Manager had issued Ext. W-2 the order of permanent posting dated 7-6-94. Naturally the concerned workman has stated that this letter was issued by R. A. Kiny. In rebuttal Subhash Chand Bhatia has only tried to prove that duty of concerned workman was again changed by Regional Manager on 12-12-94 and the concerned workman was informed about it on 20-12-94. Tara Chand Sachdeva MW (2) is Asstt. Branch Manager he has tried to disprove certain facts. The concerned workman had stated that order dated 7-6-94 was got issued through original office register and Dak Register the extracts of which were filed by him. This witness has filed these registers Ext. M-21 to Ext. M-23 to show that relevant page of the registers have been torned out. In other words this witness has not stated about forged of Ext. 2 the letter dated 7-6-94. D. K. Kushwaha MW (3) has also tried to prove that order regarding subsequent change of duty dated 16-11-92 was sought to be served upon the concerned workman. Thus it will be seen that none of the management witness has stated that Ext. W-2 letter dated 7-6-94 has not been signed by R. A. Kiny. Thus the evidence of concerned workman in this regard is un rebutted. Further in Ext. W-58 the complaint dated 16-12-94 the concerned workman had made mentioned about of his permanent posting by Regional Manager. Ext. W-64 and Ext. 65 is the reply of Regional Manager dated 2-1-95 by which the management has sought to effect change in the duty of the concerned workman. It was no where denied that Regional Manager Kanpur had never passed such order. If a fact is alleged by a party and other side does not deny it will be deemed that such fact is not disputed by the opposite party. Thus in view of the fact that the evidence of the

concerned workman has not been specifically rebutted by the management and also because of implead admission the case of the applicant that R. A. Kiny the then Regional Manager has signed Ext. W-2 is letter dated 7-6-94. In view of this definite evidence it would be fuctial to examine as to whether this letter is issued through Dak Register and office order register.

7. The next point which required determination is that as to whether by issuing a fresh order dated 16-12-94 the condition of service has been changed. It is well settled law that condition of service can arise in two ways either it can form part of appointment letter or in case of Bank Employees it can be through various provision of Bipartite Settlement. Certainly the claim of concerned workman does not lie in either of these two categories. Further having gone through Ext. W-2 I am of the definite view that by making permanent posting, R. A. Kiny had simply assigned a duty which certainly no condition of service. Hence it can be changed any time and provision of Section 9-A of 33-A I. D. Act would not apply.

8. In view of above discussion my finding is that the action of the management changing field duty of concerned workman is justified and the concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1997

कांअां 2853 :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबन्ध तंत्र के संबद्ध निदेशकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-97 को प्राप्त हुआ था।

[संख्या एल-12012/286/92-आई०आर० (बी०-2)]

सनतान, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2853.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 9-10-97.

[No. L-12012/286/92-IR(B-II)]

SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, DEOKI
PLACE ROAD, KANPUR

Industrial Dispute No. 5 of 1993

In the matter of dispute between :
Mahavir Prasad Sharma,
son of Kalicharan,
r/o 216, Kushk Gali, Mathura.

AND

Regional Manager,
Central Bank of India,
3/1, Belanganj, Agra.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification no. L-12012/286/92-I.R. B-2 dated 11-1-93, has referred the following dispute for adjudication to this Tribunal—

"Whether the claim of Sri Mahavir Sharma that he was employed by the Central Bank of India, Mathura Branch during the period from 9-3-89 to 16-11-89 and the bank paid him wages in the name of his father and brothers is correct? If so, whether the termination of his services by the management of the bank w.e.f. 17-11-89 is justified? What relief if any is the workman entitled to?"

2. The case of Mahavir Prasad Sharma is that earlier he was engaged as a sub-staff from 25-3-85 to 10-7-85 at Mathura Branch of the opposite party bank. Thereafter, he was again engaged from 9-3-89 to 16-11-89 as a sub-staff. It is alleged that the work load of the opposite party bank at this branch was increasing every day and there was need for permanent employment. Still the management by way of exploitation given short term employment to the local residents which was an act of unfair labour practice. When he had joined in 1985 he was removed from service by the branch manager as one Newab Singh had raised dispute regarding his termination. Thereafter, one Ganeshi Lal was also engaged but no opportunity was given to the concerned workman. From 7-3-89 to 16-11-89 work was taken from the concerned workman but the payment was made to his father and brothers Kali Charan and Hari Baboo and Mohan Lal. As he had completed for more than 240 days his termination is bad having been made in breach of section 25F of I.D. Act. Besides there has been breach of section 25G and H of I.D. Act as well.

3. The opposite party bank has filed reply in which it has been alleged that in the year 1985, the concerned workman was engaged to supply water. He did not work in the year 1989 at all. Hence, question of termination does not arise.

4. In the rejoinder nothing new has been alleged.

5. The only point which needs determination is as to whether the concerned workman had actually worked between 9-3-89 to 16-11-89 at the branch. To prove this fact the concerned workman had filed affidavits of his father Kali Charan, brother Hari Babu and that of himself. All of them have been cross-examined as well. All of them in one voice have stated that actually Mahavir Prasad Sharma have worked. Neither Kali Charan nor his brother have worked as peon at this branch. In rebuttal there is evidence of Branch Manager B. D. Gupta, M.W. 1 who has stated that the concerned workman had actually not worked during this period. Both Kalicharan and Hari Babu in their cross-examination have stated that actually money was paid to them. One can imagine of fact that money would have been shown in the name of one person and payment would have been made in favour of another person who had worked which very often has come to my notice in other cases when such plea is taken. Thus the fact that the father and brother of the concerned workman had actually received the wages would go to belie the version of the concerned workman that actually he had worked. Hence I disbelieve the version of concerned workman and hold that actually he had not worked between the period. Consequently the question of his wrongful termination does not arise.

6. Accordingly my award is that the services of the concerned workman was never terminated. As he was not in employment, he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1997

कांआं 3854 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबन्धन के संबंध में निम्नलिखित और उनके कार्यकर्ताओं के बीच, अनुबन्ध में निर्दिष्ट

औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय कार को 9-10-97 को प्राप्त हुआ था।

[संख्या एल-12012/319/94-आई०आर०बी०-2]

सनातन, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2854.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on the 9-10-97.

[No. L-12012/319/94-IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, DEOKI
PALACE ROAD, KANPUR

Industrial Dispute No. 40 of 1995

In the matter of dispute between :

General Secretary,
Central Bank Staff Association,
C/o B. P. Saxena 426-W-2 Basant Vihar,
Kanpur.

AND

Regional Manager,
Central Bank of India,
Regional Office 73, Hazratganj,
Lucknow.

Appearance :

B. P. Saxena for the workman.

B. G. Agrawal for the Management.

AWARD

1. Central Government, Ministry of Labour, vide its notification no. L-12012/319/94-IR B-2 dated 9-3-95, has referred the following dispute for adjudication to this Tribunal—

"Whether the action of the management of Central Bank of India Lucknow in imposing the punishment of stoppage of two increments permanently on Sri K. K. Rastogi, Teller, Clerk vide their order dated 6-8-93 is legal and justified. If not, what relief is the said workman entitled to?"

2. Although this case was reserved for finding on preliminary issue, final award is being given as ultimately the domestic enquiry is being held as fair and proper and punishment is less than dismissal and removal from service. No date for hearing on the question of punishment has been fixed as this Tribunal under section 11-A of Industrial Disputes Act, 1947, cannot go into the quantum of punishment in such circumstance.

3. Following facts are not in dispute—K. K. Rastogi was working as clerk at Chowk Branch Faizabad of the opposite party Central Bank of India. Moti Gurnani was posted there as Branch Manager. The concerned workman is the Secretary of Central Bank Staff Association, Faizabad. A Chargesheet on Dharmidhar Dubey Daftari of this branch was displayed on the notice board. According to bank on 16-10-92 the concerned workman alongwith other staff members entered in the room of Moti Gurnani Branch Manager and demanded from him a explanation for wrongfully dis-

playing the chargesheet on the notice board. In that course filthy abuses were hurled upon Moti Gurnani and was also slapped by the concerned workman. Its report was sent to higher authorities. On the above basis the concerned workman was suspended vide order dt. 20-10-92 Ext. M-6 and was also issued a memo on 24-11-92 vide Ext. M-7. No reply was given by the concerned workman hence, a chargesheet dated 9-12-92 was issued to him by the Regional Manager R. B. Dubey vide Ext. M-9 under para 19.5(C) of First Bipartite Settlement. One P. Keshwani an officer of the bank was appointed enquiry officer. After completing enquiry he submitted his report on 10-5-93, vide ext. M-15 holding that charges were proved. Show cause notice was issued to the concerned workman to show cause as to why he should not be discharged. Later on by order dt. 23-7-93 vide Ext. M-19 the concerned workman was discharged from service by way of punishment. He preferred appeal. By order dated 6-8-93, vide Ext. M-11 it was held by the appellate authority that charge was fully proved but order of punishment was modified. In lieu of order of discharge stoppage of two increments permanently was substituted. Feeling aggrieved the concerned workman has raised the instant industrial dispute. Inter alia, it was pleaded that enquiry was not fairly and properly held which fact was denied by the management in their reply. Hence, following preliminary issue was framed—

"Whether the domestic enquiry conducted by the management was fair and proper?"

The management bank has filed the photo copies of entire disciplinary proceedings the genuineness of which has been admitted by the concerned workman. In this way there was no need for oral evidence.

4. The first contention of the authorised representative of the concerned workman is that his appointing authority was Divisional Manager whereas Chargesheet was issued by the Regional Manager and was also punished by him. Hence, it is bad in law. The opposite party bank has filed Ext. M-1 which goes to show that by order dated 31-12-84, the Divisional Manager was redesignated as Regional Manager. It will be relevant to mention that concerned workman had filed writ petition no. 5563 (85) of 1994 before Hon'ble High Court challenging the authority of Regional Manager in issuing chargesheet and punishment order. By judgment and order dated 11-1-95, this point was rejected by the Hon'ble High Court and it was held that this redesignation of Divisional Manager as Regional Manager would not deprive the regional manager of right to issue chargesheet to the concerned workman. I think that this judgment is between the parties and will operate as res judicata. Hence because of above mentioned judgment of Hon'ble High Court vide Ext. M-2, it is held that there was no flaw when Regional Manager issued chargesheet and punishment order against the concerned workman. Accordingly, this contention is overruled.

5. On merits I find that the management had given the evidence of A. K. Bhargawa, Dy. Chief Officer, Regional Office. I know as M.W. 1 and Moti Gurnani Branch Manager as M.W. 2. They had with one voice supported the allegations of chargesheet. Besides Ext. M-1 to M-10 papers were filed. Five more papers were filed subsequently. In rebuttal the concerned workman examined J. K. Swarnkar D.W. 1, Suresh Chandra Srivastava, D.W. 2, P. K. Choudhary D.W. 3, B. P. Singh D.W. 4 to prove that nothing had happened except that meeting had taken place in which the concerned workman was also present. J. K. Yadav, D.W. 5 is an Assistant of Dr. Atul Verma, who had treated the concerned workman about the injury in his arm on that day. In my opinion, this medical evidence is of no consequence as according to defence witnesses themselves the concerned workman was present in the bank after 4.30 p.m. If he had sustained injury before that it will have no material bearing on the case. Interestingly the concerned workman did not dare to enter into the witness box and face the cross-examination. His reluctance in appearing before the enquiry officer would naturally lead to drawing of adverse inference against him. Further the witnesses of the bank are officers. They had no axe to grind against the concerned workman, hence it is unlikely that they would tell lie. Because of this fact and because of failure on the part of the concerned workman to appear in witness box to rebut the evidence of management I think that the enquiry officer had taken a reasonably correct view of the matter. It does not suffer from any infirmity.

6. Lastly, the contention of the workman that actually he had sustained injuries which fact was proved from medical certificate, the enquiry officer had erred in not accepting it. As already has been shown that the sustaining of injury by the concerned workman in the afternoon will have no material bearing as this alleged injury had taken place in day time and whereas this incident took place in the evening whereas according to own evidence of defence witnesses the concerned workman was present. Hence this evidence was not relevant and if the enquiry officer has not accepted, it will also have no bearing on the merits of the finding.

7. No other point has been pressed.

8. Thus it is held that enquiry was fairly and properly held and consequent punishment awarded to the concerned workman were on the basis of this finding is also justified. This Tribunal cannot go into the proportionality of punishment vis-a-vis gravity of misconduct as it is less than dismissal/removal from service. Hence, my award is that the action of the management in awarding punishment to the concerned workman by way of stoppage of two increments permanently is justified and the concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1997

कां०आ० 2855 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-97 को प्राप्त हुआ था।

[संख्या एल-12012/357/88-डीIIए/आई०आर०बी०-2]

सानातन, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2855.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on the 9-10-1997.

[No. L-12012/357/88/DIIA/IR(B-II)]

SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 159 of 1990

In the matter of dispute between :
Regional Manager Central Bank of India
Gandhi Nagar Golghar
Gorakhpur

AND

Sri Radhey Shyam Mishra
Village Jailiva Gurdaral
Bangaon P.O.
District Gonda U.P.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-12012/357/88, II A dated 26-7-1990, has referred the following dispute for adjudication to this Tribunal—

"Whether the action of the management of Central Bank of India in dismissing Sri R. S. Mishra from the service of the bank is justified? If not, to what relief is the workman concerned entitled?"

2. Following facts are not in dispute—

The concerned workman Radhey Shyam Mishra was taken in permanent service of the opposite party Central Bank of India on 23-7-1973. Earlier he was posted at Bahraich Branch on his undertaking of good behaviour he was transferred to Gonda Branch on 11-11-1976. While he was posted at Gonda Branch he had formed a political party known as Bhartiya Pirit Party. With the permission of the management bank the concerned workman had also unsuccessfully contested the parliamentary election in the year 1979. In that course he had taken a donation of Rs. 251 from M/s. Awadh Plywood Industries Gonda in respect of which its owner Nand Kishore Agrawal had made a complaint regarding forcible realization of this amount. On the basis of this complaint the concerned workman was transferred to Ayodhya. Any how he was again brought back to Gonda while he was posted at Gonda he was served with a chargesheet dated 29-4-1981, the copy of which is annexed herewith. A perusal of this chargesheet would go to show that it comprises of three parts. The first charge was regarding realization of money by issuing donation coupons to the customers of the bank by exercising undue pressure upon them. Once such instance is a donation for Rs. 251 on 24-12-1979 from M/s. Awadh Plywood Industries. The second charge is that on 8-9-80, he was transferred to Faizabad on Administrative Ground. By exerting undue influence he tried to get his transfer order cancelled. The third charge is that on 6-1-1981, he had gone to Divisional Office, Gorakhpur to deliver certain papers. There in a aggressive tone he made indecent remarks before the Regional Manager Gosh and others which runs as under—

Lijiye isko receive kariye, Central Bank ke Sab Adhikari ooper se niche tak ghooshkor hai.

At that time Dy. Chief Officer was present.

3. Enquiry took place in due course. Earlier one T. N. Singh, Assistant Branch Manager was holding enquiry. On his transfer K.K. Singhal, Branch Manager was appointed enquiry officer. After completing enquiry he submitted his report on 5-11-1984. After issuing show cause notice disciplinary authority passed dismissal order on 22-4-1985. Appeal filed by the delinquent too was dismissed on 19-2-1986. Thereafter the instant industrial dispute was raised.

4. In the claim statement the validity and fairness of enquiry was question in a variety of ways. On the other hand the management in its written statement has alleged that the delinquent has got adverse ante-

cedent inasmuch as he was punished for various misconducts. It was further alleged that facts leading to three charges are correct and no illegality was committed in holding the enquiry. On the pleadings of the parties a preliminary issue was framed regarding fairness and propriety of domestic enquiry. Vide finding dated 29-12-1985 this tribunal held that the enquiry was not fairly and properly held. Accordingly, the management was given opportunity to prove the three misconduct on merits. Thereafter, the management examined A. N. Tripathi M.W. 1. No documents were proved. In rebuttal, concerned workman Radhey Shyam Mishra examined himself, as M.W. 1. Besides he has relied upon Ext. W-1 to Ext. W. 45.

At the outset the case of the concerned workman on the basis of the case of Desh Raj Versus Industrial Tribunal, 1991 (L&S) SC, 303 may be considered. It has been urged that in view of this authority at least the concerned workman will be entitled for entire wages from the date of dismissal till the date of award, irrespective of the answer of the reference which may go in his favour or in favour of the management. It will be relevant to trace out the genesis of this case. In the case of Kalvani versus M/s. Air France Calcutta AIR 193 (SC), 1956, a constitution bench of Hon'ble Supreme Court had laid down that in a case of domestic enquiry having been held to be vitiated by Labour Court/Tribunal, that management is to be given fresh chance to prove the misconduct before such tribunal or court. In case the tribunal comes to the conclusion that the misconduct has been proved the dismissal will relate back to its original date. Thereafter, another judgment was rendered in this respect in the case of Gujarat Steels Ltd. versus Gujarat Steel Tube Mazdoor Sangh AIR 1980 (SC) 1996 in which a discordant note was struck. Before that the case of D. C. Roy versus Presiding Officer, M.P. Industrial Court, Indore, AIR 1976 (SC) 1960, was also decided on this point. In the case of Desh Raj (supra) reliance was placed on the case of Gujarat Steels Tube Limited, and it was held that in such a case the workman was entitled for entire wages from the date of dismissal till the date of award on the principle that dismissal order will not relate back. Very recently R. Thiruvirkolam versus Presiding Officer, 1997 LB IC. 443 has been reported. In this case it was pointed out that the judgment rendered in Gujarat Steels Tube and Desh Raj were rendered after overlooking the judgment of Kalvani's case which was rendered by a constitutional bench, which was not proper. Hence principle laid down in this decision cannot be treated as authority on the point. Thus this ruling including that of Deshraj (supra) has to be ignored. In view of such latest position on the point raised by the concerned workman I repel the contention of the concerned workman and hold that the concerned workman will not be entitled for back wages from the date of dismissal till the date of award simple on the ground that enquiry report has been set aside.

6. Before taking up the legal pleas and recording finding on the case of misconduct, it will be necessary to refer to case law stated by the concerned workman. There is reference to the case of Central Bank

of India versus C Burnard 1991 SCE (L&S) page 291 in which it has been held that enquiry officer after his retirement cannot continue to hold enquiry and if he conducts such enquiry that report would be bad. Here we are not dealing with any such situation. Next reference may be made to Juggilal versus R. J. Gupta, AIR 1962 (407) in which extent of acceptance of affidavit was explained. Next reference was made to the case of Virayak Bhagwan versus Kismat Private Limited 1983 (47) FLR 390 in which it was held that evidence recorded during the course of departmental enquiry has to be ignored when a labour court proceed to record finding on misconduct after setting aside the enquiry report. Next reference was made to the case of G. Chandrakant versus Guntuer District Milk Product Union 1994 (Lab IC) 1905 in which it was held that where charge is vague no enquiry can be proceeded in such a case. In the case of I. R. Mukherjee versus Dy. C. M. Engineer AIR 1961, Calcutta, 40 distinction between fact finding and enquiry was made out. In the case of Shambhoo Nath versus Bank of Baroda 1984 SCC (L&S) I it was held that where enquiry is vitiated by labour court, the management must seek opportunity to adduce further evidence. The case of LIC of India versus R Wasi Reddi AIR 1984 SC 1014 has no relevant to the present case at all. In the case of Gannon India versus Niranjani Dass 1984 SCC (L&S) 144 it has been held that where retrenchment is done in breach of section 25F of I.D. Act it is void abinitio.

7. Now it may be considered as upto what extent the charges have been proved by the bank.

8. The first charge is that while contesting Lok Sabha Election in the year 1979, on behalf of Bharatiya Pirit Party he had obtained Rs. 251 from M/s. Awadhplywood Industries Gonda by exerting undue pressure. It has already been noted that evidence adduced before the enquiry officer cannot be read before this tribunal. Hence, that evidence is to be ignored. There is evidence of P. Tripathi M.W. 1. He has not spoken a single word with regard to this alleged misconduct. Instead the authorised representative of the bank has sought to draw help from the evidence of the delinquent R. S. Mishra W.W.1. Further I do not find any such evidence against the concerned workman as the concerned workman has pleaded his ignorance if any one had collected any donation from Awadh Plywood at all. The authorised representative has further relied upon the coupons which were filed during the course of enquiry. Obviously they cannot be read in evidence as the management witness has not proved them and further no request was made for reading papers before this Tribunal. Further they have not been proved before this Tribunal. Hence these papers are also to be excluded. In its absence there is no evidence worth the name against the concerned workman to prove this charge, hence I come to the conclusion that this charge is not proved.

9. Second charge is about exerting of political pressure for cancellation of transfer to Ayodhya. Once again there is no evidence worth the name in this regard. A. R. Tripathi M.W. 1 has said nothing about it. Hence, too finding in respect of this charge

is also recorded in favour of the workman and against the management. Further I am of the opinion, that this charge was vague as the name of the person has not been given through which this political pressure was sought to be exerted.

9. Now, we may take up the third charge. It relates to indecent behaviour which took place on 6-1-1981 in the Divisional Office, Gorakhpur. It is alleged that while delivering certain papers the concerned workman was in aggressive mood against Dy. Chief Officer R. M. Ghosh and had uttered the following words.

Lijiye isko receive kariya, Central Bank ke sab adhikari opper se niche tak ghoskhor hai.

It has been the case of the management that A. R. Tripathi was present there throughout when the incident took place. Now, he has stated before the Tribunal in entirety. His evidence is that the concerned workman had uttered the above mentioned words before R. M. Gosh and he was present there. In this cross examination he has stated that concerned workman had come to office at 11 a.m. No quarrel had taken place with Ghosh, no harsh words were spoken by the concerned workman against Chief Manager. When the concerned workman had spoken these derogatory words there were two or three persons present but he does not remember their names. He had denied the suggestion that he is giving false evidence because he happens the man of JKN Singh.

10. The concerned workman Radhey Shyam Mishra W.W.1 has admitted that on 6-1-1981, he had gone to the office of R. M. Gosh and Chief manager JKN Singh. He had gone for getting his transfer order cancelled but he had not said that officers of the bank were corrupt. It has been urged by the concerned workman that Mr. Ghosh and other witnesses have not been examined hence solitary evidence of A. R. Tripathi could not be accepted specially when he belongs to the group of J. K. N. Singh. I do not agree with this contention as it is the quality of evidence and not quantity that matters. I am inclined to believe the evidence of the management as A. R. Tripathi has no axe to grind against the concerned workman. He is a responsible officer and is likely to falsely implicate any one. On the other hand there was no occasion for the concerned workman to utter such words as he was transferred and he was aggrieved and was in a agitated mood. Hence, I accept the version of the management and disbelieve the version of the concerned workman and come to the conclusion that the concerned workman had spoken the words as contained in the charge which certainly is a misconduct as envisaged by 19.5(c) of First Bipartite Settlement.

11. Next, it was contended by the concerned workman that disciplinary authority was not properly appointed as emerged by para 19.14 of bipartite settlement. This contention also finds place in para 22 of the written arguments submitted by him. However, when we go through the pleadings in the

claim statement and rejoinder we find that there is no such plea. There is sub-para (5) of paragraph 48 of claim statement which goes as under :—

Because as required under provisions of para 3(b) of the Third Bipartite Settlement dated 31-10-1989 the enquiry officer Sri K. K. Singhal was not properly appointed by the disciplinary authority as the enquiry officer to hold the impugned enquiry proceeding by his order dated 31-1-1982 (Annexure 14). Therefore, the impugned enquiry proceedings and the findings dated 5-1-1984 rendered by the enquiry officer are without jurisdiction, illegal and void in law and the dismissal order dated 22-4-1985 passed on the basis of it is also without jurisdiction, void and bad in law and deserves to be quashed.

It will be obvious from the perusal of above para that the concerned workman had not challenged the authority of disciplinary authority to appoint enquiry officer. It has also not be questioned that the disciplinary authority was not properly appointed. Instead his objection is that enquiry officer was not properly appointed by the disciplinary authority. In the rejoinder, there is no objection in this regard at all when the concerned workman had not raised the objection in the claim statement/pleading regarding the validity of appointment of disciplinary authority. It is quite understandable that the management would not have given any evidence to prove that disciplinary authority was not properly appointed. Further, in the absence of any pleadings in this regard I am not inclined to establish this plea as no party can be allowed to travel beyond the pleadings.

12. Finally the proportionality of punishment vis-a-vis misconduct may be considered. The concerned workman has been found guilty of making sweeping remarks against all the officers of the opposite party in derogatory terms which in isolation in normal course would not have been visited with the economic death sentence. In the instant case, I find that career of the concerned workman had been turbulent. Earlier he was chargesheeted on 12-5-1976 and was also punished on 2-7-1979. He had been raking disputes with the management on one pretext or the other. Hence, his remaining in service would not be conducive to industrial peace, as such I am of the view that the concerned workman does not deserves to remain in service. He has referred to the case of Ved Prakash Gupta versus M/s. Delton Cable India, 1984 SC (L & S) 281. In this case a workman was found guilty of abusing cowerker. He had no previous adverse antecedents, hence extreme penalty of dismissal was found to be disproportionate to the misconduct. In the instant case it has been shown that the concerned workman's past conduct has not been good. Further, he had levelled grave charge against officers of the opposite party bank without any basis Taking into considerations these factors, I am unable to follow the principle laid down in the above mentioned case. Still I would like to temper

justice with mercy. In this case by awarding compensation in lieu of reinstatement on the principle laid down in the case of O. P. Bhandari versus Indian Tourism Development Corporation 1986 (53) FLR 752 would be sufficient.

13. Hence, my award is that the action of the management of Central Bank of India in dismissing the concerned workman is justified and the concerned workman will be entitled for compensation at the rate 3.33 years of wages on the basis of last drawn wages.

B. K. SRIVASTAVA, Presiding Officer

ANNEXURE NO. 12

Central Bank of India
Divisional Office Gorakhpur.

Dated, April 29, 1981

CM. PRS : AN : 5-3-1965

CHARGE SHEET

Shri R. S. Misra's explanation dated 12-1-1981 in reply to the Bank's memos dated 30th December, 1980 and 6th January, 1981 has been found unsatisfactory and it been decided to held a departmental enquiry on the following charges, which constitute gross misconduct as laid down under para 19.5 (L.K. and C) of the Bipartite settlement dated 19-10-1966.

Shri R. S. Misra was transferred from Behraich to Gonda Branch on his own request on 11-11-1976 on his written assurances per his representation dated 23-7-1976 that he will not act in any manner prejudicial to the interest of the Bank but contrary to our expectation he directed his energies otherwise. Instead of promoting the bank's interest he established a political party styled as "Bhartiya Pirit Party" of which he has been the founder President Shri R. S. Misra was allowed to contest last Lok Sabha Election for which he approached the management in September 1979.

Shri R. S. Misra while contesting the Lok Sabha Election exploited and pressurised bank's clients to offer him donations according to his wishes the management has collected Donation coupons with his Photographs printed there on we quote one specific instance that on 24-12-1979, Mr. Misra pressurised M/s Avadh Plywood Industries Gonda one of the Bank's valuable clients and obtained a sum of Rs. 251 against 25 coupons bearing no. 51 to 75.

The services of Shri R. S. Misra were transferred on administrative ground from Gonda to Faizabad on 8-9-1980. After being relieved from Gonda Shri Misra. Indulged himself in uncalled for activities and bringing pressure upon the management through various sources including political parties to get his transfer cancelled liking his transfer with the alleged complaint to the management by M/s Avadh Plywood Industries Gonda Sri Misra forgot the noble maxim of the management that transfer has never been con-

sidered a punishment and he himself was obliged by the management while seeking his transfer from Bahraich on 12-5-1976 for certain lapses but the management acceded to his request and transferred him to Gonda on 11-11-1976 during the process of the departmental enquiry.

On 6th January 1981, Mr. Misra visited Divisional Office Gorakhpur to submit certain papers and while delivering the same to Dy. Chief Officer Sri R. N. Ghosh, he was found quite aggressive and he passed most indecent remarks for all the officers of Bank right from top to bottom. The exact version of his utterance is as under :—

“LIZIYE ISKO RECLIVE KARIYE CENTRAL BANK KE SAB ADHIKARI UPAR SE NICHE TAK GHUSKHORE HAIN”

Mr. Misra passed this remark in the presence of our other Dy. Chief Officer, Shri A. P. Tripathi when Mr. Tripathi took exception of this Mr. Misra quietly left the office.

Shri D. N. Singh, Assistant Branch Manager, Basti will hold the enquiry will be communicated to him by the Enquiry Officer Shri R. S. Misra will be permitted to be defended by a representative of a Registered Trade Union of Bank Employees of which he is a member.

At the enquiry he should keep ready with him all oral and documentary evidence, which he may wish to tender or produce on his behalf and he will also be allowed to.

He should inform Enquiry Officer the name of his representative and the names of the witnesses, he intends to produce at the Enquiry on his behalf. He is also informed that if he fails to present himself at the enquiry on the appointed date or on the adjourned dates, the enquiry will be held exparte and the findings of the enquiry office will be conclusive and binding on him.

Sd/-

J. K. N. SINGH, Disciplinary Authority
Shri R. S. Misra
‘Clerk’

Central Bank of India,
Faizabad.

नई दिल्ली, 13 अक्टूबर, 1997

का०आ० 2856 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14 की धारा) 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इश्यूरेन्स कां० लि० के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-97 को प्राप्त हुआ था।

[क्रिया पत्र-17011/29/89-आई०आर०बी०-II]

सनातन, डैस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2856.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of National Ins. Co. Ltd., and their workman, which was received by the Central Government on the 9-10-1997.

[No. L-17011/29/89-IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT DEOKI PALACE
ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 256 of 1989
In the matter of dispute between :

Anil Kumar Sharma,
C/o Dinesh Chandra Tewari,
108/82 A. P. Road,
Kanpur.

AND

Senior Division Manager,
National Insurance Co. Ltd.,
16/26 Mall Road,
Kanpur.

AWARD

1. Central Government Ministry of Labour New Delhi vide its notification No. L-17011/29/89 I.R. Bank I dated 11-10-1989 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of National Insurance Co. Ltd., Kanpur in terminating the service of Shri Anil Kumar Sharma. Ex-Sub-Staff, w.e.f. 1-6-85 is justified and if not to what relief the workman is entitled?

2. The case of the concerned workman Anil Kumar Sharma is that he was appointed as Sub-Staff on 7-7-84 by the opposite party National Ins. Co. Ltd., at Transport Nagar branch Kanpur. He continued to work upto 7-10-84, where after he was transferred to Mall Road Branch. He worked from 8-10-84 to

31-5-85 continuously. He was paid Rs. 12 per day. He had completed 240 days in a year. Still his services were terminated without payment retrenchment compensation and notice pay. Hence the retrenchment is bad, being in breach of Section 25F I.D. Act. It is further alleged that junior to him like Kishore Shukla and Shanker Singh were retained in service. Hence there has been breach of Section 25G I.D. Act. It has not been pleaded as to how there has been breach of Section 25H I.D. Act.

3. In reply the management has alleged that the very engagement of concerned workman is bad, having been not done by Regional Manager. In any case he was engaged from time to time according to exigency of work. He had not completed 240 days in a year preceding the date of termination. There had been no breach of Section 25G and H I. D. Act.

4. In the rejoinder the factual pleas raised in the written statement have been denied.

5. In support of his case the concerned workman Anil Kumar Sharma has examined himself as WW|1 Management was given opportunity to adduce evidence. Ultimately there were debarred from given evidence on 27-3-1997.

6. In the first place is to be seen if the concerned workman had completed 240 days in a year. Management has filed Ext. M-1 to Ext. M-13 vouchers according to which the concerned workman had worked for 55 days from 7-7-84 upto 7-10-84. The opposite party has not filed vouchers for the number of days for the period from 8-10-84 to 31-5-85 when he worked at Mall Road. In this regard there is unrebutted statement of Anil Kumar Sharma WW(1). Hence it is proved that although from 8-10-84 to 31-5-85 he had continuously worked. If we add number of days for this period in the number of days for the year 1984 it will become obvious that he had worked for more than 240 days as daily wage. Admittedly no notice pay and retrenchment compensation was paid to him. Hence his removal from service is bad in law being in breach of Section 25F I.D. Act.

7. The concerned workman has stated that Kishore Shukla and Shanker Singh were engaged after he was removed from service but no opportunity was given to him. This is contrary to pleading, according to which plea of Section 25G was taken by alleging that they were

retained in service. Hence this plea can not be accepted. Finally the appointment of concerned workman was done by Branch Manager where as the appointing authority was Regional Manager. Hence his initial appointment was bad as such he is not entitled for reinstatement. Accordingly my award is that retrenchment of concerned workman was bad in law arill he will not be entitled for reinstatement and in its liew he will get Rs. 5000 as compensation from the opposite party.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 अक्टूबर, 1997

कां०आ० 2857.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल वेयरहाउसिंग कॉर्पोरेशन के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-97 को प्राप्त हुआ था।

[सं. एन.—42011/2/97—आई. आर. (विविध)]
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S. O. 2857.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Warehousing Corporation, and their workmen, which was received by the Central Government on the 13-10-1997.

[No. L-42011/2/96-IR (Misc.)]

B. M. DAVID, Desk Officer.

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, DEOKI PALACE ROAD, PANDU NAGAR KANPUR.

Industrial Dispute No. 89 of 1996.

In the matter of Dispute .

BETWEEN :

General Secretary,
Kendriya Bhandarnagar Nigam,
Sharmik Sangh,
C.W.C. Mohan Road,
Lucknow.

AND

Regional Manager,
C.W.C. Regional Office,
Vibhuti Khand,
Gomti Nagar,
Lucknow.

AWARD

1. Central Government Ministry of Labour New Delhi has vide its Notification No. L-42011/2/96 I.R., dated 23-9-1996 has referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Central Warehousing Corporation, Lucknow is justified to keep pending payment of Medical Claims for the year 1986-87 of 22 employees as per list enclosed ? If not to what relief they are entitled to ?”

2. From the perusal of reference it is apparent that it relates to Medical claim of 22 workmen. The opposite party has informed the court supported by receipts, that entitle claim has been paid up to these workmen. The workmen of this reference have not disputed this fact. In this way the claim of reference stands satisfied. Accordingly no finding to the reference is called for.

B. K. SRIVASTAVA, Presiding Officer.

नई दिल्ली, 13 अक्टूबर, 1997

का. प्र. 2858.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल वेयरहाउसिंग कॉर्पोरेशन, के प्रबन्ध-संलग्न के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, भुवनेश्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-10-97 को प्राप्त हुआ था ।

[सं. एम-42012/9/94-आई. प्रार. (विविध)]
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 13th October, 1997

S.O. 2858.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Bhubaneswar, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Central Warehousing Corporation, and their workman, which was received by the Central Government on 13-10-97.

[No. L-42012/9/94-IR(Misc.)]
B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA:
BHUBANESWAR

PRESENT :

Sri M. R. Behera, O.S.J.S. (Sr. Branch), Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.
Industrial Dispute case No. 65 of 1994 (Central)
Dated, Bhubaneswar, the 30th September, 1997

BETWEEN

The management of M/s. Central Warehousing Corporation, C/o : Hotel Kalinga Ashoka, Goutamnagar, Bhubaneswar.

..First Party-management.

AND

Their workman Sri Chatur Pradhan, represented through Secretary, Central Warehousing Corporation Employees Union, C/o : Central Warehousing Corporation, Cuttack.
..Second Party-workman.

APPEARANCES:

Sri K. Balakrishnan, Sr. Asst. Manager(E)—For the First Party-management.

Sri A. K. Nayak, Secretary of the Union.—For the Second party-workman.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their order No. L-42012/9/94-IR(Misc.) dated 17-11-96 :

“Whether the action of the management of Central Warehousing Corporation in terminating the services of Shri Chatura Pradhan is justified? If not, to what relief the workman is entitled?”

2. The aggrieved workman Chatur Pradhan, on being authorised by the second party-union, has filed his claim statement on the averment that :

Chatur Pradhan appeared an interview before the Assistant Engineer, Central Warehousing, Berhampur for the post of Choukidar being sponsored by the Employment Exchange. On being selected, he joined as a Choukidar in the office of the Asst. Engineer, Central Warehouse, Berhampur on 17-12-87. The Corporate office vide circular No. 43 dated 22-7-87 directed posting of candidates against regular advancements, but the local management engaged Chatur Pradhan on daily rate basis. By 1987 there were eight number of sanctioned vacancies. By 1992 Vacancies increased

to 13. The management without caring to fill-up the sanctioned vacancies, again, conducted interviews on 6-7-1993 and 12-8-1993 in spite of protest of Chatur Pradhan. Chatur Pradhan lodged a complaint before the Asst. Labour Commissioner (Central), Bhubaneswar. The management disclosed before the Asst. Labour Commissioner (Central), Bhubaneswar that Chatur Pradhan was never engaged after August, 1992. The Sectional Officer, Central Warehouse, Berhampur confirmed vide letter dated 15-2-93 that Chatur Pradhan is continuing in his post and is demanding his regularisation.

In I.D. Case No. 5 of 1990 (Central) and I.D. Case No. 19 of 1990 (Central), the services of Sri K. C. Swain and Digambar Ray, who were then working as casual labourers, have been regularised by the Award of this Industrial Tribunal.

3. The first party-management has filed its written statement on the averment that :

The Recruitment and Service conditions of the employees of the first party-management is regulated by the Central Warehousing Corporation (Staff) regulations, 1986. The post of Choukidar, Grade-II appears in item No. 40 of Appendix-II of the Regulation. In fact, the first party-management has not conducted any interview for the post of Choukidar at Central Warehouse, Berhampur. Chatur Pradhan was engaged on casual basis for short spells as and when need arose. Chatur Pradhan was engaged to carry out purely casual work on contract basis. Chatur Pradhan had worked for 208 days in different short spells during 1988. The workman was also engaged for a brief spells in the year 1992 to carry out unanticipated casual work. The workman again claimed for regular job on the basis of casual and intermittent work rendered by him in short spells.

The management appointed candidates who have been sponsored by the Employment Exchange Chatur Pradhan not having been sponsored by the Employment Exchange was not considered for regular appointment.

4. On these rival pleadings, the following issues have been framed:

ISSUES

- “(1) If the second party workman was absorbed against a regular vacancy but continued on daily rate/wage?
- (2) If any interview was conducted to fill-up the post on 6-7-93 and 12-8-93 in the absence of the second party-workman? If so, the consequences thereof ?
- (3) Is the termination of service of the second party-workman valid and legal? If not, to what relief the second party-workman is entitled?”

ISSUES NOS. 1, 2 & 3 :

5. In his claim statement Chatur Pradhan has urged for his regular appointment with effect from 17-12-87 i.e., from the date of his initial appointment

with full back wages and all service benefits as in the case of others. This regularisation (regular appointment) of service is not the subject of reference. According to the law enunciated in the citation reported in 1979 (38) F.L.R. 38 (Pottery Mazdoor Panchayat Vrs. Perfect Pottery Co. Ltd.), the Tribunal cannot transgress beyond the scope of the reference and therefore, the question of adjudication on the dispute concerning regularisation of service cannot be a subject of adjudication in this case.

6. It transpires from Ext. 6 that on 31-5-88 eight number of posts of Choukidar were lying vacant in Berhampur Region, but vide Ext. 7 requisition was sent to the local Employment Exchange to sponsor names of candidates to fill-up 13 posts of Choukidar, Grade-II. Chatur Pradhan, examined as W.W. No. 1 has not at all breathed that any of the post from amongst the 13 posts remained vacant and still he was engaged as a casual labourer. From the testimony of Chatur Pradhan, it can be gathered that posts were filled-up and yet in exigencies of workload he was still engaged under the first party-management as a casual labourer. W.W. No. 1 (Chatur Pradhan) has testified that he attended an interview prior to 17-12-87 and was selected to join on 17-12-87. The management has denied that Chatur Pradhan has attended any interview for any post. On a perusal of Ext. 5 it appears that Chatur Pradhan was getting his payment although in the Muster Roll, presumably as a casual labourer. The management also has pleaded that Chatur Pradhan was engaged for 208 days during 1988 as a daily rated casual workman. M.W. No. 1 has also said that Chatur Pradhan was engaged from 17-12-87 to 25-10-88 with intermittent breaks, and that, from January, 1989 to June, 1991 there was no work, therefore, no casual labourers were engaged. This testimony of M.W. No. 1 has not at all been rebutted or challenged. The workman (W.W. No. 1) has filed Ext. 3, a certificate granted by the Assistant Engineer of the Station showing that Chatur Pradhan was a casual worker [Choukidar, M.W. No. 1 in clear tone has said that Ext. 3 has not been granted by him. Ext. 4 originally seemed to be a character certificate but the last sentence in Ext. 4 seemed to have been added subsequently which is distinguishably visible by non-maintaining of the line as well as typed with the help of two different ribbons. So, Ext. 4 is not a reliable document although the signature available in Ext. 4 has been proved by M.W. No. 1. Ext. 5 is a private letter of the predecessor to the successor of office with a request to help Chatur Pradhan in providing him the employment. The signature available in Ext. 5 has been proved by M.W. No. 1. Some dust of clouds seemed to have shrouded on Ext. 5 as regards the affixture of 'date' in Ext. 5. Law is well settled, much less reported in 1964 (II) LLJ para-559 (Sanathan Sadhukhan Vrs. Fourth Industrial Tribunal, West Bengal & others) that mere proof of signature on a document does not amount to proof of the contents of the document. Chatur Pradhan has not furnished the date of his disengagement in his pleading to enable the management to rebut the factual contentions of Chatur Pradhan. As regards Ext. 5, the person acquainted with the handwritings of the concerned Assistant Engineer who have put his hand-

writing inclusive of the date should have been cited as a witness on behalf of the workman Chatur Pradhan or the handwritings in Ext. 5 should have been confronted to M.W. No. 1. In the absence of rebuttal or challenge to the testimony of M.W. No. 1, the testimony of M.W. 1 that Chatur Pradhan was engaged up-to 25-10-88 with intermittent breaks, and that, there was no work from January '88 to June '91 therefore, no casual labourers were engaged in between, has become final. Add to it, in the pleading there is admission by the first party-management that in the year 1992 Chatur Pradhan was engaged for a brief spell. But, throughout his evidence or pleading Chatur Pradhan has not pleaded or asserted that prior to a year before the date of his disengagement he worked for 240 days stretching over all the calendar months. On this direction law has been enunciated in para-8 of the citation reported in AIR 1963 SC 1914 (Sur Enamel & Stamping Works Vrs. The Workmen), which is extracted hereunder :—

“What is meant by “one year of continuous service” has been defined in S.25-B. Under this section a workman who during a period of twelve calendar months has actually worked in an industry for not less than 240 days shall be deemed to have completed one year of completed service in the industry. Nagen Bora and Monoharan were both reappointed on 10th March, 1959. Their services were terminated on 15th January, 1960. Thus, their total period of employment was less than 11 months. It is not disputed that period of their former employment under the company prior of their reappointment on 10th March, 1959 cannot be taken into consideration in computing the period of one year, because it is common ground that their reappointment on 10th March, 1959 was a fresh appointment. The position therefore is that during a period of employment for less than 11 calendar months these two persons worked for more than 240 days. In our opinion that would not satisfy the requirement of S.25-B. Before a workman can be considered to have completed one year of continuous service in an industry it must be shown first that he was employed for a period of not less than 12 calendar months and, next that during those calendar months he had worked for not less than 240 days.”

7. To approach the day of disengagement of Chatur Pradhan to be March, 1992 as have been testified by him, Chatur Pradhan himself has said that on 11-2-93 he had repressed the management to absorb him in the regular cadre. If at all he was disengaged in March, 1992 question of his representation on 11-2-93 will not arise at all. So, this Tribunal doubts about the veracity of Chatur Pradhan to have been disengaged in March, 1992. The non-furnishing of the date of disengagement in the pleading is a conspicuous and calculated affair in this case. On the facts of this case read with the law enunciated in AIR 1963 SC 1914 (supra), Chatur Pradhan has not been able to bring

home that the management has contravened Section 25-F of the Industrial Disputes Act, so that Chatur Pradhan will be entitled for any remedy. Section 25-F of the Industrial Disputes Act cannot be said to be of any help to Chatur Pradhan.

Exts. 1 and 2 needs no appreciation as Exts. 1 and 2 are not full-fledged documents.

8. In the net, the action of the management of Central Warehousing Corporation, Berhampur in terminating the services of Chatur Pradhan cannot be attributed to be unjustified. The workman Chatur Pradhan is not entitled for any relief.

The reference is answered and the award is passed accordingly.

Dictated & corrected by me.

M. R. BEHERA, Presiding Officer

नई दिल्ली, 14 अक्टूबर, 1997

का. आ. 2859.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार आन्ध्र प्रदेश माईन्स कॉर्पोरेशन लि., के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अन्तर्गत में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-10-97 को प्राप्त हुआ था।

[सं. एल.-29012/46/85-डी-III (बी)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 14th October, 1997

S.O. 2859.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Andhra Pradesh Mining Corporation Ltd. and their workman, which was received by the Central Government on 14-10-97

[No. L-29012/46/85-D-III(B)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

PRESENT :

Sri V. V. Raghavan, B.A., LL.B., Industrial Tribunal-I

Dated, 8th day of September, 1997

Industrial Dispute No. 22 of 1987

BETWEEN :

Shri Nallamotula Ramanuiah,
Taducharla-P.O., via Dwaraka Tirumala,
PIN-534 426.

Petitioner.

AND

The Mines Manager, Andhra Pradesh,
Mining Corporation Ltd, Dwaraka-
Tirumala (W.G. Dist.) PIN-534 426

Respondent.

APPEARANCES :

M/s. A. K. Jayaprakash Rao and V. N. Goud,
Advocate—for the Petitioner.

M/s. K. Srinivasa Murthy and C. Sudha, Advocates—for the Respondent.

AWARD

The Government of India, Ministry of Labour, New Delhi by its Order No. 1-29012/46/85-D.II(B) dt. 1-5-1987 referred the following dispute to this Tribunal under Section 10(1)(d) and 2A of Industrial Disputes Act, 1947 for adjudication :—

"Whether the action of the Management of M/s. Andhra Pradesh Mining Corporation Ltd., represented by their Mines Manager, Dwaraka Tirumala in dismissing Shri Nallamothu Ramanujiah, Mines Mate for misbehaving with his Foreman while the worker was on leave on 13-2-84 is justified? If not, to what relief is the worker entitled?"

2. The workman, hereinafter called as 'Petitioner' appeared but the respondent-Management did not appear in this Tribunal. So my learned predecessor examined the workman and passed an Award on 15-10-1987 directing the respondent to reinstate the workman with continuity of service and full backwages and all other attendant benefits. Thereupon the management filed W.P. No. 9509/94 in the Hon'ble High Court of A.P. questioning the said Award. The Hon'ble High Court was pleased to allow the said Writ Petition and remand the matter to this Tribunal by its Judgement dt. 29-10-1996 subject to the management paying the full back wages to the workman till he was reinstated into service as if he had been in service. It is also observed that the workman is entitled to wages upto the date of the Award in the event of the same going against the workman. It appears that the representation was made in the Hon'ble High Court that the workman was reinstated subsequent to the Award but it is not correct. The respondent deposited an amount of 60,910.40 into this Tribunal with a calculation Memo. As per the orders in I.A. No. 17/97 dt. 13-2-97, the workman was paid an amount of Rs. 61,155.40 including the interest. The respondent filed the counter on 18-1-97.

3. The averments in the claim statement filed by the workman (Petitioner) are as follows.—The petitioner was not given an opportunity in the domestic enquiry. He was not supplied with the record in the enquiry. He was not permitted to engage a co-worker to defend him. The Foreman who bore grudge against the petitioner, has conveniently framed a fabricated and calculated story against the petitioner, tutoring the so called witnesses being workmen in the same industry under his control and managed in such a way to give evidence by them with uniform matter. The Enquiry Officer and disciplinary authority did not consider this fact. The petitioner did not at all attend office on 13-2-84 as he was actually on leave on that day. The management has not adopted a legal and constitutional procedure of launching a criminal case against him if the incident took place as alleged, by obtaining a certificate from the Government Doctor. The order of dismissal is biased and liable to be set aside. The petitioner maintained a clean and honest service throughout his service of about 12 years. The petitioner and his family members are in starving conditions as there is no other means of livelihood. Hence the respondent may be directed to reinstate the petitioner into service in full, with back wages and continuity of service and all other attendant benefits.

4. The respondent filed a counter contending as follows: The domestic enquiry was conducted as per the Certified Standing orders of the Company. He was supplied with all the documents. He refused to take the assistance of a co-employee. He stated that he himself is a union leader able to represent his case and other cases. He participated in the enquiry. But he refused to sign the enquiry proceedings. Subsequently his signatures were taken. He came to the office on 13-2-84 for applying leave. By that time he was fully in a drunken condition and in a very intoxicated mood. He attempted to kill the time keeper by taking an iron rod in his hand and threatened to stab him with the iron rod. The allegation that he is framed, he being an active trade union leader is false. To give an opportunity to him, the Management conducted the enquiry. The Enquiry was held by following the principles of natural justice. The petitioner had very bad record. On many times for his misbehaviour in a drunken condition he was given

warnings. He took advantage of the leniency of the management and threatened and abused the time keeper and Foreman. The dismissal of the petitioner may be upheld.

5. The Management though conducted the domestic enquiry did not rely upon the same. It lead the evidence in proof of misconduct of the petitioner. The Management examined M.W.1 the then Time Keeper, M.W.2 the then Foreman and M.W.3 the then Waterboy in the clay mine at Dwaraka Tirumala. M.W.4 is the Mines Manager who is the disciplinary authority and who dismissed the petitioner from service after domestic enquiry. The petitioner examined himself as W.W.1 and filed Exs. W1 to W3.

6. The point for consideration is whether the Management is justified in dismissing the petitioner from service?

7. Point.—There are Clay Mines in Dwaraka Tirumala Village. The petitioner joined as ordinary cooli in 1972, and he was promoted as Headman in 1978. His duties are to supervise the work of coolies, who dig the mineral from the earth and dumping the same during the day time. He has also to work in the night shifts on some days. He issues challans and way Bills after the clay was sold to enable the private parties to transport the Clay purchased from the Mine in lorries. M.W.1 was a Time Keeper in the same mine at that time from 1974 to 1990. His duty as time keeper is to mark the attendance of the workers in the morning and evening. Now he is working as Jr. Assistant in the Mining Corporation at Hyderabad since 1990. M.W.2 was a Foreman in the same mine from 1982 to 1986 and later he was transferred to Mangampet Branch as General Foreman. His duty is to take measurements at the worksite between 4 and 5 P.M., besides supervising the work. He also has to sanction leave to the workers. M.W.3 worked as Waterboy in the Clay Mine. He used to supply water to the workers who were actually digging the Mine. He retired from service a year back. M.W.4 is a Mines Manager from 1980. His office is in the Village proper.

8. The evidence of M.Ws. 1 and 2 is that there is a time office at a distance of 100 yards from the Mine. M.W.1 worked in the said office. There is also a well to which a Motor is fixed near the Office. M.W.3 draws the water from the well with the aid of motor and supplies the same to the workers.

9. The evidence of M.W.1 and 2 is that on 13-2-84 the petitioner had to work in the second shift duty from 4 P.M. to 12 Midnight. But on that day he came at 4.30 P.M. and applied for leave. The evidence of M.Ws. 1 and 3 is that the water is leaking out from the pipe. M.W.3 requested M.W.1 to come with a wrench and fix the pipe. While M.W.1 was attending to the said work, the petitioner came in a highly drunken condition and questioned him as to why he was doing the scavenger's work, instead of his attending to his own work. The petitioner asked him to write about his leave as he is in need of money. He pulled M.W.1 towards the office. M.W.1 prepared leave application and the petitioner signed it. M.W.1 gave the application to the petitioner with instruction to get it sanctioned by M.W.2. In the meanwhile another workman came from the Mine. The leave application is sent to M.W.2 through him. While so, the petitioner picked up crowbar from the Store room and tried to attack M.W.1 and threatened him by saying that M.W.1 should see that the Manager gave the leave for the leave period immediately. The evidence of M.W.1 on this aspect is as follows :—

"Mr. Ramannalaiah picked up a crowbar from store room and tried to attack me stating that I should see that the manager gave the leave for leave period immediately. I was afraid of him. So I came out of the office. When he was chasing me I was running around the office to avoid him. I was crying out asking the petitioner workman, not to come to me, as he was not in proper mood. My cries were heard by the watchman by name S. Malsoor. He came, held the petitioner, pulled out the crowbar and threw it into the store room. The watchman was at distance of 50 yards when the petitioner was chasing me. The petitioner wriggled himself out of the hold of the watchman and came upon me. On seeing this, the foreman

and the labour came running to us. The foreman informed the petitioner that he sanctioned the leave and the petitioner should go away. Then the petitioner started to abuse the foreman, in filthy language. The Foreman wanted to go away on his scooter. The petitioner threatened to burn the scooter."

When M.W.3 intervened, the petitioner abused in also and his evidence is as follows :—

"The petitioner held W.W.1 with one hand and carried an iron rod appearing like a crowbar in another hand. He was pulling M.W.1 and taking him around the office. I told the petitioner that what he is doing is not correct and that he should hand over the iron rod to me. He did not listen to my advice. He chastised me. At this stage M.W.2 and labour came from the mine. M.W.2 snatched away the iron rod from the hands of the petitioner and released M.W.1. The petitioner abused M.W.1 in filthy language. The petitioner abused M.W.2 by mentioning his caste and in a vulgar language. M.W.2 drafted a complaint about the incident. He read over the contents. Myself and other workers signed or affixed thumb impressions on the same. Ex M5 is the said complaint. The contents of A5 are correct."

M.W. saw the incident from top of the mine and came down to the office. He tried to pacify the petitioner by stating that he granted leave and he can go away. But the petitioner who was in drunken condition, abused M.W.2 also and particularly by mentioning his caste. The evidence of M.W.2 on this aspect is as follows :—

"A worker brought two leave applications and told me that the time keeper Mr. Y. Ramakrishna (M.W.1) wanted me to sign them. He also told me that the petitioner was quarrelling with M.W.1. Then I looked at the office from the place of my work. I found the petitioner chasing M.W.1 around the office. The petitioner was armed with a crow bar then I came running to the office. I asked the petitioner to go away as he was in a drunken condition. I told him that I have granted the leave and if anything more is there, we can talk on the next day. Then he abused me in vulgar language and demanded me to pay some money. He found fault with me for saying that he was in a drunken condition. He abused me with reference to my caste and threatened to stab me. I belong to Scheduled Caste. He said that myself and my wife and my mother consume alcohol. He abused all my family members in vulgar language. Then I wanted to go away on my scooter. He held the scooter with one hand and milled me back by holding the collar of my shirt with the other hand. He was wearing a banian and lungi only at that time. When the other workers were trying to send him away he removed the lungi also and stood naked. There were 3 female workers at that place. He tried to throw cub chair upon me. He threatened to see my end. He said that I cannot escape from him. I could know that he was in a drunken state, as he was smelling arrack".

10. It can be seen from the evidence of M.Ws. 1 to 3, that they have consistently deposed about the attack of the petitioner. The petitioner not only abused M.Ws. 1 to 3 in vulgar language but also threatened to stab M.W.1 with a crowbar. M.W.1 has to run for his life around the office. The petitioner abused M.W.2 an Officer in filthy language mentioning his caste and also held his scooter and his collar shirt. M.W.2 gave a report to M.W.4 on the same day and about 13 workers including M.W.3 gave Ex. M5 report to M.W.4 on the next day. The contentions of the petitioner are that he did not come to the office on that day at all as he was on leave and that he was implicated as he was the Union leader. There is unimpeachable evidence of M.Ws. 1 to 3, against him. When he is an union leader, the Management will be afraid of him particularly when it is a Government Corporation. It is not a private company, where the Management would try to get rid of

union leaders. I have no hesitation to come to the conclusion that the petitioner committed misconduct levelled against him.

11. The counsel for the petitioner relied upon Exs. W1 to W3 certificates issued to the petitioner by the Mines Manager on 30-9-78, 2-8-1980 and 10-4-1982, respectively to the effect that his work and conduct are satisfactory. But Exs. M12 to M19 documents disclose that the petitioner has repeatedly misconducted himself in a drunken state and the Mines Managers were letting him off with a warning. It is not the first time that he misbehaved in a drunken state and he has always admitted his guilty.

12. The learned Advocate for the petitioner relied upon certain decision in support of his contention that inspite of the conduct of the petitioner, he should be excused and given a lighter punishment under Section 11-A of the I.D. Act. In the case of Ved Prakash Gupta vs. M/s. Delton Cable [1989 S.C.C. (L&S) 180=1989 Suppl (1) SCC 31] the the Security Inspector was charged with abusing a co-worker in filthy language. There were no previous adverse remarks against him. So the Supreme Court held that the extreme penalty of dismissal for not so serious charge of misconduct, is disproportionately excessive. In the case of Scooters India Limited Lucknow Vs. Labour Court, Lucknow workman was dismissed from service as major charges are proved against him. But the Labour Court passed an order for reinstatement with back wages after holding "the workman has unfortunately to blame himself for much of the bad blood which has developed between him and the management and therefore his conduct, motivated by ideals which are not relevant has been far from satisfactory". In this case the actual charges are not set out. The High Court and Supreme Court have only confirmed the order of Labour Court. In the case of Palohat BPT & PEP THOZHAI UNION vs BPT INDIA LTD & ANR [1990 (1) I.L.J. 1411]. The workman was said to have recruited the officers outside the premises. The Supreme Court held that any act unrelated to the service committed outside the factory would not amount to misconduct.

13. In our case the petitioner not only tried to stab the time keeper and chased him around the office but also abused the foreman in filthy language mentioning his Scheduled Caste and also held his scooter as well as his collar. He had previous misconducts to his credit.

14. In these circumstances, an Award is passed holding that the respondent is justified in dismissing the petitioner from the services. However the petitioner is entitled to wages till today as per the Order of the Hon'ble High Court in WP No. 9509/94 dt. 29-10-1996.

Dictated to the stenotypist, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal this the 8th day of September, 1997.

V. V. RAGHAVAN, Industrial Tribunal-I

APPENDIX OF EVIDENCE

Witness examined for Petitioner :	Witness examined for Respondent
WW-1—N. Ramanujiah	
MW-1—Y. Ramakrishna	
MW-2—P. Rajamohan Rao	
MW-3—Ramana Satyam	
MW-4—G. Appa Rao	

Documents marked for the Petitioner

- Ex. W-1—Conduct Certificate dt. 30-9-78 issued to the Petitioner.
- Ex. W-2—Service and Conduct Certificate dt. 2-8-80 issued to Petitioner.
- Ex. W-3—Conduct Certificate dt. 10-4-82 issued to the petitioner.

Documents marked for the Respondent

- Ex. M-1—Deposition of MW1 in the domestic enquiry.
- Ex. M-2—Another deposition of MW1 in the domestic enquiry.
- Ex. M-3—Complaint dt. 13-2-84 given by MW2 to the Mines Manager.

- Ex. M-4—Statement of MW2 before the Enquiry Committee.
- Ex. M-5—Complaint of the workman given to the Management on 13-2-84.
- Ex. M-6—Charge Sheet cum suspension order dt. 17-2-84.
- Ex. M-7—Explanation of the workman dt. 19-2-84.
- Ex. M-8—Report alongwith Proceedings.
- Ex. M-9—Show cause notice dt. 24-3-84.
- Ex. M-10—Explanation dt. 31-3-84 submitted by the workman.
- Ex. M-11—Dismissal order dt. 4-4-84.
- Ex. M-12—Explanation given by the workman to M18.
- Ex. M19—Notice dt. 25-8-83 issued to the workman.
- Ex. M-20—Statement of the workman dt. 29-2-84 before the Enquiry Committee.

नई दिल्ली, 15 अक्टूबर, 1997

कां० 2860 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानगर टेलीफोन निगम लिमिटेड, मुम्बई के प्रबन्धतंत्र के संबन्धित नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं० 2, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-10-97 को प्राप्त हुआ था।

[सं० एल-40012/32/95-आई०आर०/(डी०यू०)]

क० वि० भरतनुष्णी, डेस्क अधिकारी

New Delhi, the 15th October, 1997

S.O. 2860.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mahanagar Telephone Nigam Ltd., Mumbai and their workmen, which was received by the Central Government on the 15-10-1997.

[No. L-40012/32/95-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/6 of 1996.

Employers in relation to the Management of M.T.N.L.

AND

Their workmen

APPEARANCES :

For the Employer : No Appearance.

For the workmen : Mr. N. Y. Lokhande, Advocate.

Mumbai, dated 15th September, 1997

AWARD

The Government of India. Ministry of Labour by its Order No. L-110012/32/95, dated 27/28-12-95 had referred to the following Industrial Dispute for adjudication.

"Whether the action of the management of Mahanagar Telephone Nigam Limited, Bombay in terminating the service of Shri K. Sundaram w.e.f. 5-2-1988 is justified? If not, to what relief the workman is entitled to?"

2. K. Sundaram the workman pleaded that the Chief General Manager, Telephone Nigam appointed him as a casual labourer under the Assistant Engineer Junction Cable, AEJ(WRD), City Telephone Exchange on 1st July, 1983. He continued to work in that capacity till 4-2-1988.

3. The worker pleaded that he worked more than 240 days in a year from the date of the reference to the calculations is to be made.

4. The worker averred that he did not abandon the services of the Nigam. But on 5th February he was informed not to come for duty, and asked to inquire after every fifteen days. He made inquiries but he was not re-employed. It is averred that his services has been illegally terminated by the Nigam. He was not given any notice nor legal compensation as required under the Industrial Disputes Act of 1947. He prayed that he may be reinstated in service with continuity from 5-2-1988 with back wages and all other consequential benefits.

5. The management was duly served. It remained absent. It did not file a written statement.

6. The issues are framed at Exhibit-5. The issues and my findings thereon are as follows :

Issues	Findings
1. Whether the Tribunal has jurisdiction to entertain and decide the reference? Yes.	
2. Whether the action of the management of Mahanagar Telephone Nigam Limited in terminating the services of Shri K. Sundara, w.e.f. 5-2-1988 is justified?	No
3. If not, what relief the workman is entitled to?	As per order.

REASONS

7. The issue of jurisdiction has to be seen by the Tribunal. It is not necessary that the adverse party should raise the issue then only the Tribunal can embark upon it. It is general contention that in view of the case, Sub-Divisional Inspector Posts Vs. Theyyam Joseph 1996 II Supreme 487, the telecommunication is not an industry and this Tribunal has no jurisdiction to decide the matter.

8. In Joseph's case Their Lordship observed 'India is a sovereign socialist, secular, democratic republic has to establish an egalitarian social order under the

rule of law. The welfare measures pertain the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the state. Directive Principles of state policy enjoin in the state diverse duties under IV of the Constitution and performances of the duties are constitutional functions. One of the duties is of the duties is of the state, to provide telecommunication service to the general public as an amenity and so is the essential part of sovereign functions of the state, as a welfare state, it is not, therefore, an industry.'

9. The learned advocate for the workman placed reliance on various authorities and tried to submit that M.T.N.L. is an industry. According to him in State of Bombay and Ors. Vs. Hospital Mazdoor Sabha and Ors. 1960 I LLJ 251 it is observed it is the character of the activity which decides the question as to whether the activity in question attracts the provisions of 2(j) of the Act. It is further observed who conducts the activity and whether it is conducted for profit or not do not make a material difference. Their Lordships also referred to Schedule-I to the Act which innumeral Industries which may be declared as public utility services under section 2N of the Act.

10. In Corporation City Uagpur and its employees 1960 I LLJ 523 Their Lordships considered the scope of the definition industry. It is observed that however wide the definition of industry might be it could not include the legal or sovereign function of the state namely the primary and inalienable functions of a constitutional Government which should be confined to administration of justice, maintenance of law and other legislative functions.

11. In the management of Safdurjung Hospital and Kuldeep Singh Sethi 1970 II LLJ 266, Their Lordships while considering whether hospital run by Government or a local authority or by charitable institutions not as a economic activities held that they are not governed by the definition of Industry in section 2(j) of the Act. I paragraphs 14 and 15, Their Lordships discussed the point regarding material services. It is observed that material services are not services which depend wholly or largely upon the contribution of professional knowledge skill or dexterity for the production of the result. Such a service given individually and by individual are services no doubt but not material services. These services involve any activity carried on through co-operation between employees and employee to provide a community with a use of something such as electric power, water, transportation, mail delivery telephones and the like.

12. Then comes the Bangalore Water Supply and Sewerage Board etc. and A. Raianna & Ors. 1978 I LLJ 349. The Constitutional bench of seven judges discussed various aspects namely what is industry and laid down different tests for coming to conclusion where a particular activity is an industry or not. The learned advocate for the workman more particularly, placed reliance on paragraphs 46 and 47 of the Judgment. He also referred to paragraph 131 of the Judgment. It is observed there in that what is the dominant nature test. It is stated that sovereign functions

strictly understood alone qualified for exemption not the welfare activities or economic adventures undertaken by Government or statutory bodies.

13. In Dahri Gram Panchayat and Shri Brabal Saurashtra Safai Kamgar Madal Rajkot 1971 I LLJ 508, wherein it is held that the conservancy and the sanitary activity carried on by panchayat would be covered by the definition of the word industry. Such an activity being a material service and a public utility service the workers are the workman as defined in section 2(j) of the Act.

14. In another case between Umanyam and State of Kerala 1983 I LLJ 267 Their Lordships have given a test for determining which establishments in an industry are an industry or not. The reference was regarding clerk, typists, Khalsis. While deciding it Their Lordships observed sovereign functions strictly understood alone qualify for exemptions not the other activities or economic adventure taken by Government or statutory bodies. In another case Bijoy Kumar Bharathi & Ors Vs. State of Bihar I LLJ 214 Their Lordships observed that the mere fact that there is a service code does not amount by necessary implication to the exclusion of the provision of the Industrial Disputes Act to Government department. If there were rules, for instance specially dealing with the manner in which temporary appointments could be terminated it could legitimately be argued that section 25 F is excluded. For them the rules framed under the constitutional provisions would have precedence over the Act. It is not possible to accept that contention that the provisions of the Act do not at all apply to Government servants.

15. The Union of India Vs. Presiding Officer Vs. Central Government Industrial Tribunal, Jabalpur FGR 1994, page 231 Their Lordships observed that the Central Ordinance Department is a severable unit of the Defence Department of the Central Government and carried on systematic activity with the co-operation of the employees and the employees and is an industry as defined in section 2(i) of the Industrial Disputes Act of 1947.

16. In Writ Petition Nos. 1584 of 1981, 8721 of 1981 and 3122 of 1981 the Nagpur Bench of the High Court of Bombay, held that telegraph department is an industry under section 2(j) of the Industrial Disputes Act. In K.R.P. Kaimal and Anr and Director of Postal Services. Trivendrum 1979 I LLJ 176, it is observed by Their Lordships public utility services like the postal services comes under industry, such activity cannot be called as a sovereign functions solely because rules framed under articles 309 and 310 governs such an employee. In another case between Bhaskaran and Sub-Divisional Officer 1982 II LLJ 248 it is observed that post and telegraph and telephones services are named public utility services under the Act. They are industries to which the provisions of section 10, 12 and 22 of the Act directly apply.

17. In Delhi Science Forum Vs. The Union of India (1996) 2 Supreme Court cases 405 wherein Their Lordships considered section 4 of the Telegra-

phic Act 1885, which speaks of granting of a licence to non-Government companies. That right flows from the sub-section 1 of section 4 which vests that privilege and right in the Central Government.

18. On the basis of the principles laid down in the above said authorities it is tried to argue that Telecommunication is an industry. It cannot be termed as a sovereign function of state. It is Government undertaking. It works for profits for all these reasons it clearly meets out the requirement of an industry under section 2(j) of the Act and is an industry.

19. The Learned Advocate for the management argued that this Tribunal in an earlier Reference No. 2/26/91 came to the conclusion on the basis of the Joseph's case that Telecommunication is not an industry. Judicial discipline wants that unless there is verdict from the superior court or that there is sufficient evidence on record for changing the earlier views the Tribunal should not change its views. This proposition is acceptable. Further more, if it is found by the Tribunal that a view taken by it is incorrect. There in that case it cannot be said that it should commit the same mistake in latter Judgments/Awards. It can very well correct himself as laid down in *Mafatlal Engineering Industries Ltd. Vs. Mafatlal Engineering Employees Union* and Ors 1992 I CLR 418. The Award of this Tribunal was challenged in SLP in *Bombay Telephone Canteen employees case*. It was confirmed.

20. The Learned Advocate for the workman argued that the Bangalore Water Works was delivered by a constitution Bench of seven judges. The view expressed in Joseph's case and later on in *Bombay Telephones case* is of a smaller bench of the same court. In view of Article 141 of the constitution the decision given in those cases is 'per incurrium'. The Tribunal has to ignore it. In *Bombay Telephones case* Their Lordships had considered many of the authorities which were cited before me. The ratio therein cannot be said to be 'per incurrium'.

21. The Learned Advocate for the workman placed reliance on *Union of India and Ors Vs. Godfrey Philips India Ltd.* (1985) 4 S.C. cases 369 and *Punjab Land Development and Reclamation Corporation Ltd. Chandigarh Vs. Presiding Officer Labour Court, Chandigarh Vs.* 3 SC 682. These cases deals with the law that the principles laid down by larger bench are to be followed in relation to smaller bench, nobody disputes it.

22. The Supreme Court considered their views expressed in Joseph's case in *Bombay Telephone Canteen Employees Association, Prabhadevi Telephone Exchange Vs. Union of India* and Anr. 1997 II CLR 218. Their Lordships considered the *Bangalore water works*, *Hospital Mazdoor Sabha, Corporation of City of Nagpur Rajasthan State Electricity Board* and many other. They also considered the case of *Physical Research Laboratory Vs. K. G. Sharma J. T.* 1997 (4) S.C. 527 and came to the conclusion that departmental canteen of telephone is not an industry. It is observed that the employees working in a statutory can-

teen in view of respondents admission are holding civil posts and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate a dispute on a reference under section 10(1) of the Industrial Disputes Act.

23. In the above said authority their Lordships further observed that the employee gets a remedy under the Act by way of reference and remedy of a judicial redresser by way of proceedings under Article 226 or a petition filed before the Administrative Tribunal. They are co-existing. The court would therefore strike a balance between the competition rights of the individual and the state agency or instrumentality and decide the validity of the action taken by the management. Necessarily if the service conditions stand attracted all the conditions laid therein would become applicable to the employees with a fixity of tenure and guarantee of service subject to disciplinary action. His removal should be in accordance with the just and fair procedure envisaged under the rules or application of the Principles of Natural Justice as the case may be in which even the security of the tenure of the employee is assured and the whim and the fancy vagary of the employer would be deterred and if unfair and unjust action is found established it would be declared as an arbitrary, unjust or unfair procedure. On the other hand if the finding is that there exists no statutory rule or certified standing order exists or they are not either made inapplicable. The remedy of the reference under section 10 of the Act would always be available and avail of as it is an industry and indivia lead in *Bangalore Water Supply Board case* gets attracted.

24. In *Himanshu Kumar Vidyarthi and Ors. Vs. State of Bihar and Ors.* 1997 S.C. cases (L&S) 1979 their Lordships observed every department of Government cannot be treated to be an industry. When the appointments are regulated by the statutory rules the concept of industry to that extent sands excluded. In that case the petitioners were not appointed to the posts in accordance with the rules but were engaged on the basis of need of work. They are temporary employees working on daily wages. Their are disengagement from service, cannot be construed to be a retrenchment under the Industrial Disputes Act. The concept of retrenchment therefore cannot be stretched to such an extent as to cover these employees since they are only daily wage employees and have no right to the post, their disengagement is not arbitrary. Relying on the ratio given in this authority it is tried to submit that the workmen who is a casual labourer have no right for the employment. The other facts are different then the facts before me.

25. The ratio laid down from the above said authorities is that if the employees hold a civil posts and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate the dispute on a reference under section 10(1) of the Act.

26. The certificates which are issued by the department showing working days of the worker clearly speaks that he was appointed as a casual labourer. There is no appointment letter. He appears to have engaged on the basis need to work. The recruitment is not like that of civil servants. There is no evidence to show that he was paid monthly. There is no evidence that the worker was entitled to a particular pay scale. On the basis of the ratio in Bombay Telephone it has to be said that the worker does not hold civil posts. In the result the Tribunal can decide the reference under section 10(1) of the Industrial Disputes Act.

27. K. Sundaram (Exhibit-6) affirmed that he was terminated from 4-2-88 without giving any notice nor compensation for the notice period. From the certificate 'A' which was given by the department showing the working days of the workman it is very clear that he was appointed on 1-6-83 and continued to work till 4-2-88. As his last working day was 4-2-88 one year is to be calculated with reference to that date. Even if this is taken into consideration it can be seen that in that year eventhough he did not work for a single day in February '1987 to May '1987 in the remaining period he worked for 249 days. He is a continuous worker as contemplated under section 25-B of the Act. Naturally when his services are terminated, the management has to comply under section 25-F of the Act. Admittedly it did not. The result is that the retrenchment is illegal and the worker is entitled to reinstatement in service with full back wages.

28. Sundaram had affirmed that the management did not appear before the Tribunal because they realised their fault and found that the termination is illegal. I find substance in it. In the result I record my findings on the issues accordingly and pass the following order:

ORDER

1. The action of the management of Manager Telephone Nigam Limited, Bombay in terminating the service of Shri K. Sundaram w.e.f. 5-2-1988 is not justified.
2. The management is directed to reinstate the worker as a casual labour and pay him all his wages from the date of termination till reinstatement.

S. B. PANSE, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 1997

कां०आ०2861:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानगर टेलीफोन निगम लिमिटेड, मुम्बई के प्रबन्ध-तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्तर्ग्रह में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं० 2, मुम्बई के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 17-10-97 को प्राप्त हुआ था।

[सं० एल-40012/186/94-आई०आर०(डी०यू०)]
क०वि० भरतनुष्णी, डेस्क अधिकारी

New Delhi, the 17th October, 1997

S.O. 2861.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mahanagar Telephone Nigam Ltd., Mumbai and their workman, which was received by the Central Government on 17-10-97.

[No. L-40012/186/94-IR(DU)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer
Reference No. CGIT 2/3 of 1996
Employers in relation to the Management of.

M. T. N. L.

AND

Their Workmen

APPEARANCES :

For the Employer—Mr. V. S. Masurkar, Advocate.

For the Workmen—Mr. N. Y. Lokhande, Advocate.

Mumbai, dated 15th September, 1997

AWARD

The Government of India, Ministry of Labour by its Order No. L-110012/186/94-IR(DU), dtd. 27-12-95, had referred to the following Industrial Dispute for adjudication :—

"Whether the action of the management of MTNL, Bombay in terminating the services of Shri G. A. Kawade w.e.f. 1-12-1986 is justified. If not, to what relief the workman is entitled to?"

2. G. A. Kawade, the worker filed a statement of claim at Exhibit-4. He was appointed as a casual labourer by the Chief General Manager, M.T.N.L. on 1-6-85. He was at Ghatkappur. He continued to work there till 31-3-86. Thereafter it is his case he was again re-employed on 7-10-86 to 31-11-86 at Malabar Hill exchange. His services were terminated on 1-12-86.

3. The worker pleaded that he was in continuous service for more than 240 days, in twelve months before his termination. He was terminated without compliance, of the provisions of section 25F of the Industrial Disputes Act of 1947. It is asserted that after the termination he approached the officers for reinstatement in service. He was given sweet assurances of reemployment and was asked to make inquiries again and again. Ultimately he approached the Assistant Labour Commissioner for relief. He prayed that he is entitled to reinstatement in service and continuity from 1-12-86 alongwith back wages and other consequential benefits.

4. The Sub-Divisional Engineer (ECBI) Telephone House Prabhadevi, M.T.N.L., resisted the claim by their written statement Exhibit-5. It is contended that the Tribunal has no jurisdiction to try the dispute. It is so because the Central Administrative Tribunal which is established from 1-1-85 deals with the reliefs of such a nature. It is averred that the workman has raised this dispute after lapse of six years which is a belated one. It is therefore, deserves to be dismissed.

5. The management pleaded that in view of the Supreme Courts directions and in view of the Judgements of the superior courts the management framed/casual labour" (grant of temporary status and regularisation) scheme. The department also made it clear that casual mazdoors were not supposed to be employed after 30th March 1985 and that no temporary status be confirmed on these mazdoors without prior concurrence of the department of telecommunication. It is pleaded that in view of such a scheme thousands of temporary employees were regularised. The case of the worker does not fall in it. Under such circumstances he is not entitled to the reliefs which he claimed.

6. The management asserted that the workman had not completed 240 days in a year before the date of his alleged termination. He is not a continuous worker. It is submitted that he abandoned the services. It is averred that as the workers case does not fall under section 25F of the Industrial Disputes Act of 1947 it is therefore there is no question of giving him one months notice nor any compensation as pleaded. It is averred that the worker is not entitled to any of the reliefs.

7. The worker filed a rejoinder at Ex-6. It is pleaded that the Tribunal has jurisdiction to try the reference and he was approaching the authorities time and again for relief it cannot be said that the reference is belated. He reiterated the contentions taken by him in the statement of claim.

8. The issues are framed at Exhibit-8. The issues and my findings there on are as follows :—

Issues	Findings
1. Whether the Tribunal has jurisdiction to entertain and decide the reference ?	Yes.
2. Whether the workman is entitled to the different schemes issued by the department ?	No.
3. Whether the action of the management of Mahanagar Telephone Nigam Limited in terminating the services of Shri G. A. Kawade from December 1986 is legal and justified ?	Yes.
4. If not, what relief the workman is entitled ?	Does not arise.

REASONS

9. Gautam Anurath Kawade (Ex-9) the worker lead oral evidence and relied upon the documents which he filed alongwith the statement of claim. As against that Shamsuzzaman (Ex-14) the Sub-Divisional Engineer examined himself to support the case of the management.

10. The issue of jurisdiction has to be seen by the Tribunal. It is not necessary that the adverse party should raise the issue then only the Tribunal can embark upon it. It is general contention that in view of the case, Sub Divisional Inspector, Posts Vs. Theyyam Joseph 1996 II Supreme 487, the telecommunication is not an industry and this Tribunal has no jurisdiction to decide the matter.

11. In Joseph's case Their Lordships observed 'India is a sovereign, socialist, secular, democratic republic has to establish an egalitarian social order under the rule of law. The welfare measures pertain the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the State. Directive Principles of state policy enjoying in the state diverse duties under IV of the Constitution and performances of the duties are constitutional functions. One of the duties is of the state to provide telecommunication service to the general public as an amenity and so, is essential part of sovereign functions of the state, as a welfare state, it is not, therefore, an industry.'

12. The learned advocate for the workman placed reliance on various authorities and tried to submit that M.T.N.L. is an industry. According to him in State of Bombay and Ors. Vs. Hospital Mazdoor Sabha & Ors. 1960 I ILC 251 it is observed it is the character of the activity which decides the question as to whether the activity in question attracts

the provisions of 2(j) of the Act. It is further observed who conducts the activity and whether it is conducted for profit or not do not make a material difference. Their Lordships also referred to Schedule-I to the Act which enumerated Industries which may be declared as public utility service under section 2N of the Act.

13. In Corporation City Nagpur and its employees 1960 I LLJ 523 Their Lordships considered the scope of the definition industry. It is observed that however wide the definition of industry might be it could not include the legal or sovereign function of the state namely the primary and inalienable functions of a constitutional Government which should be confined to administration of justice, maintenance of law and other legislative functions.

14. In the management of Safdurjung Hospital, and Kuldeep Singh Sethi 1970 II LLJ 266, Their Lordships while considering whether Hospital run by Government or a local authority or by charitable institutions not as a economic activities held that they are not governed by the definition of industry in section 2(j) of the Act. In paragraph 14 and 15, their Lordships discussed the point regarding material services. It is observed that material services are not services which depend wholly or largely upon the contribution of professional knowledge, skill or dexterity for the production of the result. Such a service given individually and by individual are services no doubt but not material services. These services involve any activity carried on through co-operation between employers and employee to provide a community with a use of something such as electric power, water transportation, mail delivery telephones and the like.

15. Then comes the Bangalore Water Supply and Sewerage Board etc. and A. Rajappa & Ors. 1978 I LLJ 349 The constitutional bench of seven judges discussed various aspects namely what is industry and laid down different tests for coming to conclusion where a particular activity is an industry or not. The learned advocate for the workman more particularly, placed reliance on paragraph 46 and 47 of the Judgment. He also referred to paragraph 131 of the Judgment. It is observed there in that what is the dominant nature test. It is stated that sovereign functions strictly understood alone qualified for exemption not the welfare activities of economic adventures undertaken by Government or statutory bodies.

16. In Dahri Gram Panchayat and Shri Brahad Saurashtra Safai Kamgar Mandal Rajkot 1971 I LLJ 508, wherein it is held that the conservancy and the sanitary activity carried on by Panchayat would be covered by the definition of the word industry. Such an activity being a material service and a public utility service the workers are the workman as defined in section 2(j) of the Act.

17. In another case between Unanyann and State of Kerala 1983 I LLJ 267 Their Lordships have given a test for determining which establishments in an industry are an industry or not. The reference was regarding clerk, typists, Khalasis. While deciding it Their Lordships observed sovereign functions strictly understood alone qualify for exemptions not the other activities or economic adventure taken by Government or Statutory bodies. In another case Bijoy Kumar Bharathi & Ors. Vs. State of Bihar I LLJ 214 Their Lordships observed that the mere fact that there is a service code does not amount by necessary implication to the exclusion of the provision of the Industrial Disputes Act to Government department. If there were rules, for instance specially delaying with the manner in which temporary appointments could be terminated it could legitimately be argued that section 25F is excluded. For them the rules framed under the constitutional provisions would have precedent over the Act. It is not possible to accept the contention that the provisions of the Act do not at all apply to Government servants.

18. In Union of India Vs. Presiding Officer Vs. Central Government Industrial Tribunal, Jabalpur, FGR 1994 page 231 Their Lordships observed that the Central Ordinance Department is a severable unit of the Defence Department of the Central Government and carried on systematic

activity with the co-operation of the employees and the employers and is an industry as defined in Section 2(j) of the Industrial Disputes Act of 1947.

19. In writ petition Nos. 1584 of 1981, 8721 of 1981 and 3122 of 1981 the Nagpur Bench of the High Court of Bombay, held that telegraph department is an industry under Section 2(j) of the Industrial Disputes Act. In *K. R. P. Kaimal and Anr. and Director of postal services, Trivandrum*, 1979 1 LLJ 176, it is observed by Their Lordships public utility services like the postal services comes under industry, such activity cannot be called as a sovereign functions solely because rules framed under articles 309 and 310 governs such an employee. In another case between *Bhaskaran and Sub-Divisional Officer* 1982 11 LLJ 248 it is observed that post and telegraph and telephones services are named public utility services under the Act. They are industries to which the provisions of Sections 10, 12 and 22 of the Act directly apply.

20. In *Delhi Science Forum Vs. The Union of India* (1996) 2 Supreme Court cases 405 wherein Their Lordships considered Section 4 of the Telegraphic Act 1885 which speaks of granting of a licence to non-government companies. That right flows from the sub-section 1 of Section 4 which vests that privilege and right in the Central Government.

21. On the basis of the principles laid down in the above said authorities it is tried to argue that Telecommunication is an Industry. It cannot be termed as a sovereign function of state. It is Government undertaking. It works for profits for all these reasons it clearly meets out the requirement of an industry under Section 2(j) of the Act and is an industry.

22. The Learned Advocate for the management argued that this Tribunal in an earlier Reference No. 2/26/91 came to the conclusion on the basis of the Joseph's case that Telecommunication is not an industry. Judicial discipline wants that unless there is verdict from the superior Court or that there is sufficient evidence on the record for changing the earlier views the Tribunal should not change its views. This proposition is acceptable. Further more, if it is found by the Tribunal that a view taken by it is incorrect. There in that case it cannot be said that it should commit the same mistake in latter Judgments/Awards. It can very well correct himself as laid down in *Mafatlal Engineering Industries Ltd. Vs. Mafatlal Engineering Employees Union and Ors.* 1992 1 CLR 418. The Award of this Tribunal was challenged in SLP in *Bombay Telephone Canteen Employees case*. It was confirmed.

23. The Learned Advocate for the workman argued that the Bangalore Water Works was delivered by a Constitution Bench of seven Judges. The view expressed in Joseph's case and later on in *Bombay Telephones case* is of a smaller bench of the same Court. In view of Article 141 of the Constitution the decision given in those cases is per mecurium. The Tribunal has to ignore it. In *Bombay Telephones case* Their Lordships had considered many of the authorities which were cited before me. The ratio there in cannot be said to be 'per incurium'.

24. The Learned Advocate for the workman placed reliance on *Union of India and Ors. Vs. Godfray Philips India Ltd.* (1985) 4 S.C. cases 369 and *Punjab Land Development and Reclamation Corporation Ltd., Chandigarh Vs. Presiding Officer Labour Court Chandigarh* (1990) 3 S.C. 682. These cases deals with the law that the principles laid down by larges bench are to be followed in relation to smaller bench, nobody disputes it.

25. The Supreme Court considered their views expressed in Joseph's case in *Bombay Telephone Canteen Employees Association, Prabhadevi Telephone exchange Vs. Union of India and Anr.* 1997 11 CLR 218. Their Lordships considered the *Bangalore Water Works, Hospital Mazdoor Sabha, Corporation of City of Nagpur, Rajastran State Electricity Board* and many other. They also considered the case of *Physical Research Laboratory Vs. K. G. Sharma J. T.* 1997 (4) S.C. 527 and came to the conclusion that departmental Canteen of Telephone is not an industry. It is observed that the employees working in a statutory canteen in view of respondents admission are holding civil posts and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate a dispute on a reference under Section 10(1) of the Industrial Disputes Act.

26. In the above said authority their Lordships further observed that the employee gets a remedy under the Act by way of reference and remedy of a judicial redresser by way of proceedings under Article 226 or a petition filed before the Administrative Tribunal. They are co-existing. The Court could therefore strike a balance between the competing rights of the Industrial and the state agency or instrumentality and decide the validity of the action taken by the management. Necessarily if the service conditions stand attracted all the conditions laid there in would become applicable to the employees with a fixity of tenure and guarantee of service subject to disciplinary action. His removal should be in accordance with the just and fair procedure envisaged under the rules or application of the Principles of Natural Justice as the case may be in which event the security of the tenure of the employee is assured and the whim and the fancy vagory of the employer would be

dettered and if unfair and unjust action is found established it would be declared as an arbitrary, unjust or unfair procedure. On the other hand if the finding is that there exists no statutory rule or certified standing order exists or they are not either made in applicable. The remedy of the reference under Section 10 of the Act would always be available and avail of as it is an industry and indicia lead in Bangalore Water Supply Board case gets attracted.

27. In Himanshu Kumar Vidyarthi and Ors. Vs. State of Bihar and Ors. 1997 S.C. cases (L&S) 1079 Their Lordships observed every department of Government cannot be treated to be an industry. When the appointments are regulated by the statutory rules the concept of industry to that extent stands excluded. In that case the petitioners were not appointed to the posts in accordance with the rules but were engaged on the basis of need of the work. They are temporary employees working on daily wages. They are disengagement from service, cannot be construed to be a retrenchment under the Industrial Disputes Act. The concept of retrenchment therefore cannot be stretched to such an extent as to cover these employees since they are only daily wage employees and have no right to the post, their disengagement is not arbitrary. Relying on the ratio given in this authority it is tried to submit that the workmen who is a casual labourer have no right for the employment. The other facts are different than the facts before me.

28. The ratio laid down from the above said authorities is that if the employees holds a civil posts and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate the dispute on a reference under section 10(1) of the Act.

29. In this reference admittedly the worker is a casual labourer. There is no appointment letter. He is appeared to have engaged on the basis of need to work. The recruitment is not like that of civil servants. The certificates of his working days which are produced at Exhibit-'B' collectively do not show whether he was paid daily or monthly. He being a casual labourer it has to be presumed that he was paid daily. There is no evidence that the worker was entitled to a particular pay scale. On the basis of the ratio in the Bombay Telephones it has to be said that the worker does not hold Civil posts. In the result the Tribunal can decide the reference under section 10(1) of the Industrial Disputes Act.

30. Gautam Anurath Kawade (Ex-9), the worker affirmed that he was employed by the management on 1-6-85 and worked at Ghatkopar unit till 31-3-96. Thereafter he was appointed on 2755 GI/97-12

7-10-86 and continued to work till 31-11-86. The second period was at Malabar Hill Exchange. He had produced certificates at Exhibit-B|1, B|2 and B|3 collectively. From the basis of this certificates it can be seen that in last twelve months that is from December 1985 to November 1986 he had worked only for 172 days. One year has to be taken into consideration from the date when reference of the calculation has to be made as contemplated under section 25(B) of the Industrial Disputes Act. In other words he cannot be said to be in continuous service as contemplated under that section.

31. Exhibit-'A' cannot be said to be a letter of termination given to the worker. Admittedly the last working day was 31-11-86. This is a letter dated 17-6-89 and issued by way of certificate by Assistant Engineer National Spate Depot, Ghatkopar, Bombay. He cannot take any advantage of the position that the word retrenchment is used in this letter. It can be further seen that he was not at Ghatkopar when he worked in the department on 31-11-86.

32. As observed above the worker cannot be said to be in continuous service. Non compliance of the provisions of section 25F of the Act has no application to the worker. There is no need to give him a notice nor one months salary. His termination cannot be said to be a retrenchment under the Act.

33. Shamshuddin (Exhibit-14) Sub-Divisional Engineer affirmed that the worker was not employed by the Chief General Manager but by Assistant Engineer. The statement to that effect in the statement of claim appears to be incorrect. It can be further seen that in view of the Supreme Courts Judgments the scheme of regularisation of casual labour was envisaged. As per that scheme the department had regularised more than 10,000 employees. As per that scheme the worker cannot be given employment. Nothing is shown to me how the worker is entitled under that scheme. In the result I record my findings on the issues accordingly and pass the following order :

ORDER

The action of the management of Mahanagar Telephone Nigam Limited, Bombay in terminating the services of Shri G. A. Kawade w.e.f. 1st December, 1986 is justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 1997

का०आ० 2862:—औद्योगिक विवाद अधिनियम, 1917 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चीफ जनरल मैनेजर, टेलीकॉम महाराष्ट्र सर्विस,

के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं० 2, मुम्बई के पंजाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-97 को प्राप्त हुआ था।

[संख्या एल-40011/7/92-आई०आर० (डी०यू०)]
के० वि० बी० उष्णी, डैक अधिकारी

New Delhi, the 17th October, 1997

S.O. 2862.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Chief General Manager, Telecom. Maharashtra Circle and their workman, which was received by the Central Government on the 17-10-1997.

[No. L-40011/7/92-IR(DU)]
K. V. B. UNNY, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2
MUMBAI

PRESENT : Shri S. B. Panse
Presiding Officer

REFERENCE NO. CGIT-2/46 of 1993
Employers in Relation to the Management of
Telecom

AND
Their Workmen

APPEARANCES :

For the Employer : Mr. P. M. Pradhan Advocate.
For the Workmen : Mr. B. W. Vaidya Advocate.

Mumbai, dated 22nd September, 1997

AWARD

The Government of India, Ministry of Labour by its order No. L-40011/7/92 dated 20-5-93, had referred to the following Industrial dispute for adjudication.

“Whether the proposed action of the management of Chief General Manager, Maharashtra Circle in relation to its Telecom District, Solapur to re-trench 77 casual labourers as per list in Annex A and allot the work thus created to the contractors is legal and justified? If not, what relief the affected workmen are entitled to?”

2. The Circle Secretary, M.I.T.E. Union L.S. & GRD Maharashtra Circle Bombay filed a Statement of claim at Exhibit-3. It is contended that on 30-8-88 an agreement took place between the management of Telecommunications Maharashtra Circle and workmen represented by All India Telegraph Engineering Employees Union Line Staff and Class. IV over the issue of retrenchment of 91 casual labourers.

3. The Telecom District Manager, Solapur terminated the agreement dated 30-8-81 by his letter dated 13-8-81. It is asserted that, that letter is illegal and contrary to the Industrial Disputes Act of 1947. (herein after the Act). The union raised its objection for the said letter.

4. The management reiterated its stand before the Assistant Labour Commissioner in a conciliation proceeding. The Divisional Union also wrote to the management that their approach is illegal. The management by this letter dated 19-11-91 pleaded that the nature of termination of those employees is legal and further protested against the status quo. It is also asserted that it has not committed any unfair labour practice.

5. The Union by its letter dated 24-3-92, asserted that there was enough work with the management but the management did not want the casual labourers to complete 240 days and hence was refusing to give the work. It also asserted that because of that the worker could not be absorbed. On 23-3-92 the management filed a final say in the conciliation proceeding and pleaded that the workload has increased and that there was no recruitment and that new work were being undertaken by giving the work on contract in keeping with the policy of the Government.

6. The union pleaded that the T.D.M., Solapur issued proforma type letters to casual workers contending that they will allot the work to them on contract basis if the worker forms a group of a co-operative society. This stand was also taken before the Assistant Labour Commissioner.

7. The union pleaded that the management had not complied with the requirement of section 19(2) of the Act. It is asserted that the department of Telecommunication by a letter dated 7-2-86 referring to privatisation and employment of outside agencies has clearly stated that work should not be given to private agencies which result in to reduction of casual labourers. It is asserted that under such circumstances the action of the management in allotting the work to the contractors by terminating the services of casual labourers was bad, illegal and void and was not keeping with the policy of department. It is therefore, prayed the action of management for

retrenching 77 workmen being held to be not legal and justified so also the allotment of work to the contractor. They prayed for reinstatement of all the workman with back wages from the date of retrenchment.

8. The management resisted the claim by their written statement Exhibit-4. It is averred that the workmen have filed an application before the Central Administrative Tribunal and as such this Tribunal has no jurisdiction to decide the matter. It is submitted that none of the workman shown in the schedule have completed 240 days in a year and as such they are not entitled to be reinstated. It is averred that no continuous work was available therefore the workers were informed about the non-availability of work and it is wrong to say that their services were terminated. It is asserted that the workers who have completed 240 days were regularised.

9. The management pleaded that the settlement dated 13-8-88 was implemented. When there was work the casual labourers were given work as per their seniority and they were informed that they were supposed to be discontinued after the completion of that particular work. It is submitted that none of the casual labourers are eligible to be absorbed in the service.

10. The management pleaded that it acted as per section 19 of the Act. It gave clear notice even though the tender notice issued prior to settlement it was not acted upon. The notice inviting tender was of 1-11-91 which is clearly following beyond the period of two months after the notice of terminating the settlement was given. It is averred that the work was first offered to a group of casual labourers or a cooperative society formed by them but they did not accept it. It is submitted that no illegality was committed by the management. It is averred that the reference is misconceived and it may be answered accordingly.

11. The issues that fall for my consideration and my findings thereon are as follows :

Issues	Findings
1. Whether the Tribunal has jurisdiction to decide the reference ?	Yes.
2. Whether the proposed action of the management of Chief General Manager Maharashtra circle in relation to its Telecom district Solhapur to retrench 77 casual labourers as per the list annexed is legal and justified ?	Yes, excluding three.
3. Whether the action of the management of allotting the work thus created to the contractors is legal and justified ?	Action legal but not justified.

4. If not, what relief the affected workmen are entitled to ?

As per order.

REASONS

12. The issue of jurisdiction has to be seen by the Tribunal. It is not necessary that the adverse party should raise the issue then only the Tribunal can embark upon it. It is general contention that in view of the case. Sub-Divisional Inspector of Posts Vs. Theyyam Joseph 1996 II Supreme 487, the telecommunication is not an industry and this Tribunal has no jurisdiction to decide the matter.

13. In Joseph's case Their Lordships observed "Indian is a sovereign, socialist, secular democratic republic has to establish an egalitarian social order under rule of law. The welfare measures pertain the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the state. Directive principles of state policy enjoin the state diverse duties under IV of the constitution and performances of the duties are constitutional functions. One of the duties is of the state, to provide telecommunication service to the general public as an amenity and so is the essential part of sovereign functions of the state, as a welfare state, it is not therefore an industry."

14. The learned advocate for the workman placed reliance on various authorities and tried to submit that Mahanagar Telephone Nigam Limited is an industry. According to him in State of Bombay and Ors. Vs. Hospital Mazdoor Sabha and Ors. 1960 I LLJ 251 it is observed, it is the character of the activity which decides the question as to whether the activity in question attracts the provisions of 2(j) of the Act. It is further observed who conducts the activity and whether it is conducted for profit or do not make a material difference. Their Lordships also referred to Schedule 1 to the Act which innumerate Industries which may be declared as public utility service under Section 2(N) of the Act.

15. In Corporation City Nagpur and its employees 1960 I LLJ 523 Their Lordships considered the scope of the definition industry. It is observed that however wide the definition of industry might be it could not include the legal or sovereign function of the state viz. the primary and inalienable functions of a constitutional government which should be confined to administration of justice, maintenance of law and other legislative functions.

16. In the management of Safdarjung Hospital and Kuldeep Singh Sethi 1970 II LLJ 266, Their Lordships while considering whether Hospital run by Government or a local authority or by charitable institutions not as economic activity as an industry

held that they are not governed by the definition of Industry in Section 2(j) of the Act. In paragraphs 14 and 15, Their Lordships discussed the point regarding material services. It is observed that material services are not services which depend wholly or largely upon the contribution of professional knowledge, skill or dexterity for the production of the result. Such a service given individually and by individual are services no doubt but not material services. These services involve individually and by individual are services no doubt employees and employee to provide a community with a use of something such as electric power, water transportation, mail delivery, telephones and the like.

17. Then comes the Bangalore Water Supply and Sewerage Board etc. and A. Rajappa & Ors. 1978 I LLJ 349 The Constitutional Bench of seven Judges discussed various aspects namely what is industry and laid down different tests from coming to conclusion where a particular activity is an industry or not. The Learned Advocates for the workman more particularly placed reliance on paragraph 46 and 47 of the Judgment. He also referred to paragraph 131 of the Judgment. It is observed therein that what is the dominant nature test. It is stated that sovereign functions strictly understood alone qualified for exception not the welfare activities or economic adventures undertaken by Government or statutory bodies.

18. In Dahir Gram Panchayat and Shri Brahad Saurashtra Safai Kamgar Mandal, Rajkot 1971 I LLJ 508, wherein it is held that the conservancy and the sanitary activity carried on by Panchayat would be covered by the definition of the word industry. Such activity being material service and a public utility service, the workers are the workman as defined in Section 2(j) of the Act.

19. In another case between Umanayam and State of Kerala 1983 I LLJ 267 Their Lordships have given a test for determining which establishments in an industry are an industry or not. The reference was regarding clerk, typists, khalsis. While deciding it Their Lordships observed sovereign functions strictly understood alone qualify for exemptions not the other activities or economic adventure taken by Government or Statutory bodies. In another case Bijoy Kumar Bharathi & Ors. Vs. State of Bihar I LLJ 214 Their Lordships observed that the mere fact that there is a service code does not amount to necessary implication to the exclusion of the provision of the Industrial Disputes Act to Government Department. If there were rules, for instance specially dealing with the manner in which temporary appointments could be terminated it could legitimately be argued that Section 25-F is excluded. For them the rules framed under the Constitutional provisions would

have precedence over the Act. It is not possible to accept the contention that the provisions of the Act do not apply to Government servants.

20. In Union of India Vs. Presiding Officer Vs. Central Government Industrial Tribunal, Jabalpur, FGR 1994 page 231 Their Lordships observed that the Central Ordinance department is a severable unit of the defence department of the Central Government and carried on systematic activity with the co-operation of the employees and the employers and is an industry as defined in section 2(j) of the Industrial Disputes Act of 1947.

21. In Writ Petition Nos. 1584 of 1981, 8721 of 1981 and 3122 of 1981 the Nagpur Bench of the High Court of Bombay held that telegraph department is an industry under section 2(j) of the Industrial Disputes Act. In K. R. P. Kaimal and Anr. and Director of Postal services, Trivandrum 1979 I LLJ 176, it is observed by Their Lordships public utility services like the postal services comes under industry, such activity cannot be called as a sovereign functions solely because rules framed under articles 309 and 310 governs such an employee. In another case between Bhaskaram and Sub-Divisional Officer 1982 II LLJ 248 it is observed that post and telegraph and Telephone services are named public utility services under the Act. They are industries to which the provisions of section 10, 12 and 22 of the Act directly apply.

22. In Delhi Science Forum Vs. The Union of India (1996) 2 Supreme Court cases 405 wherein Their Lordships considered section 4 of the Telegraphic Act 1885 which speaks of granting of a licence to non-government companies. That right flows from the sub-section 1 of section 4 which vests that privilege and right in the Central Government.

23. On the basis of the principles laid down in the above said authorities it is tried to argue that Telecommunication is an industry. It cannot be termed as a sovereign function of state. It is Government undertaking. It works for profits for all these reasons it clearly meets out the requirement of an industry under section 2(j) of the Act and is an industry.

24. The Learned Advocate for the management argued that this Tribunal in an earlier Reference No. 2/26/91 came to the conclusion on the basis of the Joseph's case that Telecommunication is not an industry. Judicial discipline wants that unless there is verdict from the superior court or that there is sufficient evidence on the record for changing the earlier views the Tribunal should not change its views. This proposition is acceptable. Further more, if it is found by the Tribunal that a view taken by it is incorrect. There in that case it cannot be said that it should commit the same mistake in latter Judgments/Awards. It can very well correct himself

as laid down in *Mafatlal Engineering Industries Ltd. Vs. Mafatlal Engineering Employees Union and Ors.* 1992 1 CLR 418. The Award of this Tribunal was challenged in SLP Bombay Telephone canteen employees, case. It was confirmed.

25. The Learned Advocate for the workman argued that the Bangalore Water Works was delivered by a constitution bench of seven judges. The view expressed in Joseph's case and later on in Bombay Telephones case is of a smaller bench of the same court. In view of Article 141 of the Constitution the decision given in those cases is 'per incurram'. The Tribunal has to ignore it. In Bombay Telephones case Their Lordships had considered many of the authorities which were cited before me. The ratio therein cannot be said to be 'per incurram'.

26. The Learned Advocate for the workman placed reliance on Union of India and Ors. Vs. Godfrey Philips India Ltd. (1985) 4 S.C. cases 369 and Punjab Land Development and Reclamation Corporation Ltd., Chandigarh Vs. Presiding Officer Labour Court, Chandigarh (1990) 3 S.C. cases 682. These cases deal with the law that the principles laid down by larger bench are to be followed in relation to smaller bench, nobody disputes it.

27. The Supreme Court considered their views expressed in Joseph's case in Bombay Telephone Canteen Employees Association, Prabhadevi Telephone Exchange Vs. Union of India and Anr. 1997 II CLR 218. Their Lordships considered the Bangalore Water Works, Hospital Mazdoor Sabha, Corporation of City of Nagpur Rajasthan State Electricity Board and many other. They also considered the case of Physical Research Laboratory Vs. K. G. Sharma J.T. 1997 (4) S.C. 527 and came to the conclusion that departmental canteen of Telephone is not an industry. It is observed that the employees working in a statutory canteen in view of respondents admission are holding civil posts and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate a dispute on a reference under section 10(1) of Industrial Disputes Act.

28. In the above said authority their Lordships further observed that the employee gets a remedy under the Act by way of reference and remedy of a judicial redresser by way of proceedings under Article 226 or a petition filed before the Administrative Tribunal. They are co-existing. The court would therefore strike a balance between the competing rights of the individual and the state agency or instrumentality and decide the validity of the action taken by the management. Necessarily if the service conditions stand attracted all the conditions laid there in would become applicable to

the employees with a fixity of tenure and guarantee of service subject to disciplinary action. His removal should be in accordance with the just and fair procedure envisaged under the rules or application of the Principles of Natural Justice as the case may be in which event the security of the tenure of the employees is assured and the whim and the fancy vagary of the employer would be deterred and if unfair and unjust action is found established it would be declared as an arbitrary, unjust or unfair procedure. On the other hand if the finding is that there exists no statutory rule or certified standing order exists or they are not either made in applicable. The remedy of the reference under section 10 of the Act would always be available and avail of as it is an industry and indicia lead in Bangalore Water Supply Board case gets attracted. -

29. In *Himanshu Kumar Vidyarthi and Ors. Vs. State of Bihar and Ors.* 1997 S.C. cases (L&S) 1079 Their Lordships observed every department of Government cannot be treated to be an industry. When the appointments are regulated by the statutory rules the concept of industry to that extent stands excluded. In that case the petitioners were not appointed to the posts in accordance with the rules but were engaged on the basis of need of the work. They are temporary employees working on daily wages. They are disengagement from service, cannot be construed to be a retrenchment under the Industrial Disputes Act. The concept of retrenchment therefore cannot be stretched to such an extent as to cover these employees since they are only daily wage employees and have no right to the post, their disengagement is not arbitrary. Relying on the ratio given in this authority it is tried to submit that the workman who is a casual labourer have no right for the employment. The other facts are different than the facts before me.

30. The ratio laid down from the above said authorities is that if the employees hold a civil posts and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate the dispute on a reference under section 10(1) of the Act.

31. From the documents on the record and from testimony of R. K. Naik (Ex-8), Vijay Kumar Kawekar (Ex-10) witnesses for the union and Kumar Swamny Rapol (Ex-14) the Divisional Engineer witness for the management it reveals that these employees were not having a particular pay scale. Their recruitment was not under the rules, but they were appointed as per the need of the work. In other words these employees cannot be said to be holding the civil post. If this is so in view of the principles laid down in the above said authorities it has to be said that they do not hold any civil posts. As this is so the Tribunal has jurisdiction to decide the reference under the Industrial Disputes Act. It is not in dispute that there was

a memorandum of Settlement (Ex-42) between General Manager, Telecommunication Maharashtra Sakar and All India Telegraph Engineering Employees Union on 30-8-88. It was recorded before the conciliation officer under section 12(3) of the Industrial Disputes Act. In view of the said settlement it was agreed that the employees who completed 240 days out of that the 91 casual workmen were to be reinstated in service with immediate effect. They were nine in number. It can be further seen that as per clause-3 the remaining 82 casual workmen were to be given the employment as and when additional work is created by the employer and the work is to be allotted considering the seniority of casual mazdoors and the employer has to strictly comply with section 25(H) of the Industrial Disputes Act. That clearly goes to show that the 77 employees appearing there which I will be discussing later or were employees who did not complete 240 days and as per the settlement he was agreed that they are not be re-employed forth with but to be given the work as per the availability.

32. Kapil (Exhibit-14) the Divisional Engineer affirmed that there were two departments which were totally independent. One department is Telecom Division Engineer and another is Microwave Maintenance. He deals with Telecom Engineering. It is tried to suggest that there were unemployment of other persons as casual mazdoors in this department which he denied stating that they might be employed in Microwave but not in his department. He affirmed that some of the workmen were employed only in so far as a particular project was concerned and after completion of that project they were not required to continue. He admits the position that the department had issued a circular that if there is no work in the division the casual labourers are to be given work in the neighbouring division. But according to him there was no requisition from other departments for sending casual labourers without action be send. There is no reason why the witnesses has to be disbeleived on this point. I say so because it has to be seen in relation to a particular point of time. If the project was completed for some days or months there might not be work and on starting of a new project after few days or a month the work would be available.

33. R. K. Naik (Exhibit-8) was previously office bearer of the union. He tried to submit that in those 77 workmen atleast 7 workmen have completed 240 days. He affirmed that he will produce the documents to satisfy the position and produced the documents at Exhibits 56 to 61. After perusal of these documents it cannot be said that these workmen have completed 240 days in a year as required under the law or under the scheme for reinstatement.

34. Vijay Kumar Kawekar (Ex-10) the Telephone Supervisor affirmed that Exhibit-'A' which is attached to his affidavit which relates to 35 workmen clearly speaks of completion of 240 days in a year to support this list the documents are not produced on the record. Not only that there are vital admissions in the cross-examination which speaks that this list is prepared at random and it cannot be given weightage at all. So far as Syed Saffi Sheikh who is at serial No. 16 is concerned appears to be employed at Kolhapur C.T.O. but the union had no knowledge when they prepared a chart. At serial No. 12 there is Rajendra Pandarinnath Bansode which is again shown as R. P. Bansode at serial No. 23. One Shivaji Tukaram Waghmare who is shown at serial No. 14 is suggested to be dead. But the union does not know about it. He admits the position that he did not verify the contents from the record but has prepared the list on the basis of the information received by him. Under such circumstances this list cannot be relied upon.

35. It is not in dispute that department of Telecommunication had issued a circular dated 17-10-88 (Ex-10[B]). This circular deals with regular absorbs of casual labourers in Group 'D' posts. It is mentioned therein that the combined seniority list of all casual labourers in respect of recruitment unit will be maintained. This list has to be prepared of a casual labourer within a proper jurisdiction of the recruitment unit for various functionaries such as telecommunication/projects/maintenance/electricians/quality assurance etc. It is further mentioned that absorbs of casual labour is to be done on the basis of the combined seniority list. A similar circular was issued on 17-10-87 (Ex-10[C]).

36. Kapil in his cross-examination stated that there was a seniority list in respect of the employees working on 1-7-88 and who were recruited before 7-5-85. That was the seniority list of Telecom. Solhapur Division. He further admits that there was no combined seniority list after seeing Exhibit-55. According to him the workers were not removed but informed that there was no work.

37. Kapil affirmed that they issued a notice (Ex-44) under section 19(2) of the Industrial Disputes Act dated 13-8-91. It can be seen that by this notice they want to inform the union that by now they do not want to continue with the settlement dated 30-8-82 (Ex-42). As per the provisions of the Act till completion of 2 months they have to wait. It reveals that there after tenders were called for issuing the work to the contractors (Ex-45). From the documents which are at Exhibits-17 to 39 which relates to the conciliation proceedings it cannot be said that the management had not complied with section 19(1) of the Industrial Disputes Act.

38. It is not in dispute that before giving the work to the contractor the management offered that work to the casual labourers. Letters are at Exhibits-46, 47 and 48 to different casual labourers. They were asked to form a co-operative society to take the work on a contract basis. But they declined to do so. Kapi affirms that it is therefore the work was given to the contractors in 1992. It can be seen that it is the general policy of the department that the work is not be given to the contractors. But it is to be carried out by the casual labourers.

39. It is argued on behalf of the union that on 7-2-86 a circular was issued by the department which states that employment of outside agencies for the works such as construction of out side plant, over head lighting etc. should not normally result in reduction of scale of work carried out departmentally nor in discharge of casual labour already being regularly employed. After perusal of this circular it cannot be said that there was a mandate. It can be further seen that this circular speaks of not giving the work to the contractors discharging the casual labourers who were already in the employment. So far as these employees are concerned they were not their in the employment. Therefore it cannot be said that the management had flouted the orders. It can be further seen that the circular dated 23-7-91 (Ex-41) deals with absorbs of casual mazdoors and labourers. It speaks of non-availability of the work of a senior casual labourers who worked in the field of the casual labourers who are juniors who worked in the exchange premises. The department informed the concerned that they should be intimated such existence to them to look into.

40. It is the general policy now that the work should not be given to the contractor and should be carried out from the employees. Here in this case it can be seen that the management had revoked the settlement dated 30-8-88 by giving notice under section 19(1) of the Industrial Disputes Act. It is therefore, there is no illegality but in view of the different circulars the trend is that the work should not be given to the contractor. I therefore find that the action of the management to giving the work to the contractor is not justified. It cannot be said that it is illegal.

41. It is tried to submit on behalf of the union that the employees are entitled to reinstatement in service with full back wages. For the reasons given above it cannot be said that they are entitled to back wages and reinstatement forth with, but, they are to be given the jobs as and when their vacancy arose and as per the common seniority list prepared.

42. Kapi (Ex-14) admits that Barve, Jadhav and Paril the workmen who figures in the list of 77 employees have completed 240 days in a year. As

this is so they are entitled to reinstatement in service. Their removal is not correct. They are in continuous service. The management did not comply with the provisions of retrenchment under the Industrial Disputes Act. Therefore, they are entitled to full back wages from the date of their termination till their reinstatement. In the result I record my findings on the issues accordingly and pass the following order :

ORDER

The management's action of retrenching Bharve, Jadhav and Patil employees is not legal and justified, but so far as other employees are concerned it is legal and justified.

The management is directed to reinstate Bharve, Jadhav and Patil and pay them full back wages from the date of their termination till their reinstatement alongwith other consequential benefits.

The action of the management for allotting the work to the contractor is legal but not justified. It is therefore they are directed to engage the employees mentioned in the list as per the common seniority list as and when there is availability of the work.

S. B. PANSE, Presiding Officer

नई दिल्ली, 17 अक्टूबर, 1997

का०आ० 2863.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानगर टेलीफोन निगम लिमिटेड, मुम्बई के प्रबन्ध-तंत्र के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुसन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकारन औद्योगिक अधि-करण, नं० 2, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-10-97 को प्राप्त हुआ था।

[सं० एम०-40012/223/94-आई०आर० (सी०यू०)]
के० बी० उन्नी, डेस्क अधिकारी

New Delhi, the 17th October, 1997

S.O. 2863.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employees in relation to the management of Mahanagar Telephone Nigam Ltd., Mumbai and their workman, which was received by the Central Government on the 17th October, 1997.

[No. L-40012/223/94-IR(DU)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/2 of 1996

Employers in relation to the management of
M.T.N.L.

AND

Their workmen.

APPEARANCES :

For the Employers—No Appearance.

For the Workmen—Mr. N. Y. Lokhande,
Advocate.

Mumbai, the 15th September, 1997

AWARD

The Government of India, Ministry of Labour by its order dated 27th December, 1995, had referred to the following Industrial Dispute for adjudication :

"Whether the action of the management of Mahanagar Telephone Nigam Limited, Bombay in terminating the services of Shri Deepak Sadashiv Shrikhande w.e.f. 1st September, 1986 is justified? If not, to what relief the workman is entitled?"

2. The workman Deepak Sadashiv Shrikhande filed a statement of claim at Exhibit-3. He pleaded that he was appointed as a casual labourer by the Chief General Manager, M.T.N.L. under A.P.M. E. (Prabhadevi) in October, 1985. He worked upto August, 1986. The total working days comes to 320.

3. He pleaded that his services were terminated on 1st September, 1986 without following any procedure contemplated under section 25-F of the Industrial Disputes Act of 1947. Thereafter he approached the authorities for reinstatement in service. He was orally assured by the authorities that they will do so. But they did not. Ultimately on 2nd January, 1994 he approached the Assistant Labour Commissioner for redress. He prayed that he may be reinstated in service with continuity and back wages. He also prayed for the consequential benefits.

4. The management was duly served. They remained absent. The matter was adjourned for filing their written statement. But nobody turned up.

4. The issues that fall for my consideration and my findings thereon are as follows :

Issues

Findings

- | | |
|---|---------------|
| 1. Whether the Tribunal has jurisdiction to entertain and decide the reference? | Yes. |
| 2. Whether the action of the management of Mahanagar Telephone Nigam Limited in terminating the services of Shri Deepak Sadashiv Shrikhande w.e.f. 1-9-1986 is justified? | No. |
| 3. If not, what relief the workman is entitled to? | As per order. |

REASONS

5. The issue of jurisdiction has to be seen by the Tribunal. It is not necessary that the adverse party should raise the issue then only the Tribunal can embark upon it. It is general contention that in view of the case, Sub-Divisional Inspector, Posts Vs. Theyyam Joseph 1996 II Supreme 487, the telecommunication is not an industry and this Tribunal has no jurisdiction to decide the matter.

6. In Joseph's case Their Lordships observed "India is a sovereign, socialist, secular, democratic republic has to establish an egalitarian social order under the rule of law. The welfare measures pertain the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the state. Directive principles of state policy enjoying in the state diverse duties under IV of the constitution and performances of the duties are constitutional functions. One of the duties is of the state, to provide telecommunication service to the general public as an amenity and so is the essential part of sovereign functions of the state, as a welfare state, it is not therefore an industry."

7. The Learned advocate for the workman placed reliance on various authorities and tried to submit that Mahanagar Telephone Nigam Ltd. is an industry. According to him in State of Bombay and Others Vs. Hospital Mazdoor Sabha & Ors. 1960 I LLJ 251 it is observed, it is the character of the activity which decides the question as to whether the activity in question attracts the provisions of 2(j) of the Act. It is further observed who conducts the activity and whether it is conducted for profit or do not make a material difference. Their Lordships also referred to Schedule I to the Act which innumerate Industries which may be declared as public utility service under section 2(N) of the Act.

8. In Corporation City Nagpur and its employees 1960 I LLJ 523 Their Lordships considered the scope of the definition Industry. It is observed that however wide the definition of industry might be

it could not include the legal or sovereign function of the state viz. the primary and inalienable functions of a constitutional government which should be confined to administration of justice, maintenance of law and other legislative functions.

9. In the management of Safdarjung Hospital, and *Kuldeep Singh Sethi* 1970 II LLJ 266, Their Lordships while considering whether Hospital run by Government or a local authority or by charitable institutions not as a economic activity as an industry held that they are not governed by the definition of industry in section 2(j) of the Act. In paragraph 14 and 15, their Lordships discussed the point regarding material services. It is observed that material services are not services which depend wholly or largely upon the contribution of professional knowledge, skill or dexterity for the production of the result. Such a service given individually and by individual are services no doubt but not material services. These services involve in activity carried on through co-operation between employers and employee to provide a community with a use of something such as electric power, water transportation, mail delivery telephones and the like.

10. Then comes the Bangalore Water Supply and Sewerage Board etc. and *A. Rajappa & Ors.* 1978 I LLJ 349. The Constitutional Bench of seven Judges discussed various aspects namely what is industry and laid down different tests for coming to conclusion where a particular activity is an industry or not. The learned advocate for the workman more particularly, placed reliance on paragraph 46 and 47 of the Judgment. He also referred to paragraph 131 of the Judgment. It is observed therein that what is the dominant nature test. It is stated that sovereign functions strictly understood alone qualified for exception not the welfare activities or economic adventures undertaken by Government or statutory bodies.

11. In *Dhari Gram Panchayat and Shri Brahad Saurashtra Safai Kamgar Mandal Rajkot* 1971 I LLJ 508, wherein it is held that the conservancy and the sanitary activity carried on by panchayat would be covered by the definition of the word industry. Such a activity being a material service and a public utility service, the workers are the workman as defined in section 2(j) of the Act.

12. In another case between *Umanyam and State of Kerala* 1983 I LLJ 267 Their Lordships have given a test for determining which establishments in an industry are an industry or not. The Reference was regarding clerk, typists, Khalasis. While deciding it Their Lordships observed sovereign functions strictly understood alone qualify for exemptions not the other activities or economic adventure taken by Government or Statutory bodies. In another case *Bijoy Kumar Bharati & Ors. Vs.*

State of Bihar I LLJ 214 Their Lordships observed that the mere fact that there is a service code does not amount by necessary implication to the exclusion of the provision of the I.D. Act to Government department. If there were rules, for instance specially dealing with the manner in which temporary appointments could be terminated it could legitimately be argued that section 25F is excluded. For them the rules framed under the constitutional provisions would have precedence over the Act. It is not possible to accept the contention that the provisions of the Act do not at all apply to Government servants.

13. In *Union of India Vs. Presiding Officer, Vs. Central Government Industrial Tribunal, Jabalpur*, FGR 1994 page 231 Their Lordships observed that the Central Ordinance Department is a severable unit of the defence department of the Central Government and carried on systematic activity with the co-operation of the employees and the employers and is an industry as defined in Section 2(j) of the Industrial Disputes Act of 1947.

14. In writ petition Nos. 1584 of 1981, 8721 of 1981 and 3122 of 1981 the Nagpur Bench of the High Court of Bombay, held that telegraph department is an industry under Section 2(j) of the Industrial Disputes Act. In *K.R.P. Kaimal and Anr. and Director of Postal services, Trivandrum* 1979 I LLJ 176, it is observed by Their Lordships public utility services like the postal services comes under industry. such activity cannot be called as a sovereign functions solely because rules framed under Articles 309 and 310 governs such an employee. In another case between *Bhaskaran and Sub-Divisional Officer* 1987 I LLJ 248 it is observed that post and telegraph and Telephones services are named public utility services under the Act. They are industries to which the provisions of sections 10, 12 and 22 of the Act directly apply.

15. In *Delhi Science Forum Vs. The Union of India* (1996) 2 Supreme Court cases 405 Wherein Their Lordships considered section 4 of the Telegraphic Act 1885 which speaks of granting of a licence to non government companies. That right flows from the sub section 1 of section 4 which vests that privilege and right in the Central Government.

16. On the basis of the principles laid down in the above said authorities it is tried to argue that Telecommunication is an industry. It cannot be termed as a sovereign function of State. It is Government underaking. It works for profits for all these reasons it clearly meets out the requirement of an industry under section 2(j) of the Act and is an industry.

17. The Learned Advocate for the management argued that this Tribunal in an earlier Reference No. 2/26/91 came to the conclusion on the basis of the Joseph's case that Telecommunication is not an industry. Judicial discipline wants that unless there is verdict from the superior court or that there is sufficient evidence on the record for changing the earlier views the Tribunal should not change its views. This proposition is acceptable. Further more, if it is found by the Tribunal that a view taken by it is incorrect. There in that case it cannot be said that it should commit the same mistake in latter Judgments/Awards. It can very well correct himself as laid down in *Mafatlal Engineering Industries Ltd. Vs. Mafatlal Engineering Employees Union and Ors.* 1992 1 CLR 418. The Award of this Tribunal was challenged in SLP in *Bombay Telephone canteen employees case*. It was confirmed.

18. The Learned Advocate for the workmen argued that the Bangalore water works was delivered by a Constitution Bench of seven judges. The view expressed in Joseph's case and later on in *Bombay Telephones case* is of a smaller bench of the same court. In view of Article 141 of the constitution the decision given in those case is 'per incurium'. The Tribunal has to ignore it. In *Bombay Telephones case* Their Lordships had considered many of the authorities which were cited before me. The ratio there in cannot be said to be 'per incurium'.

19. The Learned Advocate for the workman placed reliance on *Union of India and Ors. Vs. Godfrey Philips India Ltd.* (1985) 4 S.C. cases 369 and *Punjab Land Development and Reclamation Corporation Ltd. Chandigarh Vs. Presiding Officer Labour Court Chandigarh* (1990) 3 S.C. cases 682. These cases deals with the law that the principals laid down by larger bench are to be followed in relation to smaller bench, nobody disputes it.

20. The Supreme Court considered their views expressed in Joseph's case in *Bombay Telephone Canteen employees Association, Prabhadevi Telephone exchange Vs. Union of India and Anr.* 1997 II CLR 218. Their Lordships considered the *Bangalore Water works, Hospital Mazdoor Sabha, Corporation of City of Nagpur Rajasthan State Electricity Board* and many other. They also considered the case of *Physical Research Laboratory Vs. K. G. Sharma J.T.* 1997 (4) S.C. 527 and came to the conclusion that departmental canteen of Telephone is not an industry. It is observed that the employees working in a statutory canteen in view of respondents admissions are holding civil posts and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate a dispute on a reference under section 10(1) of Industrial Disputes Act.

21. In the above said authority Their Lordships further observed that the employee gets a remedy under the Act by way of reference and remedy of a judicial redresser by way of proceedings under Article 226 or a petition filed before the Administrative Tribunal. They are co-existing. The court would therefore strike a balance between the competing rights of the individual and the state agency or instrumentality and decide the validity of the action taken by the management. Necessarily if the service conditions stand attracted all the conditions laid there in would become applicable to the employees with a fixity of tenure and guaranteed of service subject to disciplinary action. His removal should be in accordance with the just and fair procedure envisaged under the rules or application of the Principles of Natural Justice as the case may be in which event the security of the tenure of the employee is assured and the whim and the fancy vagary of the employer would be deterred and if unfair and unjust action is found established it would be declared as an arbitrary, unjust or unfair procedure. On the other hand if the finding is that there exists no statutory rule or certified standing order exists or they are not either made in applicable. The remedy of the reference under section 10 of the Act would always be available and avail of as it is an industry and indicia lead in *Bangalore Water Supply board case* gets attracted.

22. In *Himanshu Kumar Vidyarthi and Ors. Vs. State of Bihar and Ors.* 1997 S.C. cases (L&S) 1079 Their Lordships observed every department of Government cannot be treated to be an industry. When the appointments are regulated by the statutory rules the concept of industry to that extent stands excluded. In that case the petitioners were not appointed to the posts in accordance with the rules but were engaged on the basis of need of the work. They are temporary employees working on daily wages. They are disengagement from service, cannot be construed to be a retrenchment under the Industrial Disputes Act. The concept of retrenchment therefore cannot be stretched to such an extent as to cover these employees since they are only daily wage employees and have no right to the post, their disengagement is not arbitrary. Relying on the ratio given in this authority it is tried to submit that the workmen who is a casual labourer have no right for the employment. The other facts are different than the facts before me.

23. The ratio laid down from the above said authorities is that if the employee holds a civil post and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate the dispute on a reference under section 10(1) of the Act.

24. In this reference admittedly the worker is a casual labourer. There is no appointment letter. They appears to have engaged him as the need to work. The recruitment is not like all civil servants. The certificate Exhibit 'A' of the statement of claim dated 30th December, 1993 issued by A.P.M.E., Prabahadevi of the employer clearly speaks of the worker being casual labourer on daily wages. In other words the worker was not entitled to any particular pay scale. On the basis of the ratio in Bombay Telephones it has to be said the worker does not hold civil posts. In the result the Tribunal can decide the reference under section 10(1) of the Industrial Disputes Act.

25. Deepak Sadashiv Shrikande (Exhibit-7) affirmed that on 31st October, 1986 he was removed from the service without giving any notice or pay in lieu of notice period. The certificate dated 30th December, 1993 issued by the department clearly speaks that he was appointed on October, 1985 and was working till August, 1986. It comes to near about 11 months. The working days are 320. He is a continuous worker contemplated under section 25(B) of the Industrial Disputes Act. Naturally he is to be served with a notice contemplated under section 25(F) of the Industrial Disputes Act which is not given in the present case. Therefore his retrenchment is illegal.

26. I have already stated above that the management even though duly served did not remain present nor it cross examined the worker.

27. There is no evidence to show that the service of the workman was terminated for non-availability of the work for his job. Under such circumstances he entitled to be reinstated as a casual labourer from the date of his termination alongwith other reliefs. In the result I record my findings on the points accordingly and pass the following order :

ORDER

1. The action of the management of Mahanagar Telephone Nigam Limited, Bombay in terminating the services of Shri Deepak Sadashiv Shrikande w.e.f. 1st September, 1986 is not justified.
2. The management is directed to reinstate Deepak Sadashiv Shrikande as a casual labourer and pay him all his wages from the date of termination till reinstatement.

! S. B. PANSE, Presiding Officer

नई दिल्ली, 21 अक्टूबर, 1997

कां.आ. 2864.—औद्योगिक विवाद अधिनियम, 1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकॉम फैक्ट्री मुम्बई के प्रबन्धन के संबद्ध नियोजकों

और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक अधिकरण, नं० 2, मुम्बई, के पंचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 21-10-97 को प्राप्त हुआ था।

[सं० एल-40011/70/94-आई०आर० (डी०यू०)]
के०वी०वा० उष्णी, डेस्क अधिकारी

New Delhi, the 21st October, 1997

S.O. 2864.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom Factory, Mumbai and their workman, which was received by the Central Government on 21-10-97.

[No. L-40011/70/94-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II MUMBAI

PRESENT:

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT : 2/4 of 1996.

Employers in relation to the management of
Telecom Factory.

AND

Their Workmen

APPEARANCES :

For the Employer—Mr. B.M. Masurkar, Advocate.

For the Workmen—Mr. S.R. Wagh, Advocate.
Mumbai, dated 22nd September, 1997

AWARD

The Government of India, Ministry of Labour by its Order No. L-40011/70/94-IR(DU) dated 27-12-95, had referred to the following Industrial Dispute for adjudication:

"Whether the action of the management of Telecom Factory, Bombay in not revising the pay scale as Rs. 260-400 to Asstt. Halwai, cook, clerk working in their Canteen at Bombay is legal and justified? If not, to what relief the concerned workmen are entitled to?"

2. The Vice President of All India Telecom Employees Class-III filed a claim statement at Ex-3. It is pleaded that there is a statutory departmental canteen being run by Canteen Managing Committee in Telecom Factory, Mumbai under the department of Tele-communication in accordance with Factories Act. On 4-11-81, the Government of India, Post and Telegraph Board declared the Employees of the statutory

Canteens established in the Telecom Factory's organisation under the Factories Act as Government Employees w.e.f. 4-11-81.

3. In the year 1984 the Post and Telegraph Department issued a circular in connection with Examination of recruitment of various post. In the said circular, category and their revised pay has been indicated. The revised pay scale of Assistant Halwai, Cook and Clerk has been prescribed as Rs. 260-400 (the present equivalent pay is 950-1500).

4. The concerned categories of employees working in the canteen requested the management to revise their pay scale from 225-308 to Rs. 260-400 but the management refused to comply with the demand. It is averred that the duties performed by these employees in the departmental canteen and that of the canteens of Post and Telegraph all over India are similar but the pay scale is different. Therefore it is pleaded that they should be given that pay scale with retrospective effect. It is prayed that the reference may be answered accordingly.

5. The management resisted their claim by Exhibit-5. It is averred that the Canteen was initially managed by the Canteen Managing Committee. The Government used to grant subsidy to the factory to run the canteen. The employees of the canteen were not government servants but the government took over it from 4-11-81 and they were converted into Departmental Employees by the Government. The Ministry of Communications, Department of Telecom issued separate orders revising the scales of pay of the employees of the canteen. They were appointed in different cadres w.e.f. 4-11-81. They were given appointment letters with their pay scales. The pay prescribed by the Ministry of Communication Post and Telegraph, New Delhi granted the pay scales and they were paid to them. It is denied that, that pay scale was prescribed by the Government to them. The demand which is made by them is unjust.

6. It is asserted that on the basis of the letter dated 26-9-84, the claim is made was issued for examination purpose. The claim which is made on its basis is without any substance. It is submitted that the fixation of pay scale is the work of Pay Commission and not of Tribunal. It is therefore, submitted that the workmen are not entitled to any of the claims and the reference may be answered accordingly.

7. The union filed rejoinder at Exhibit-7. and reiterated its claim made in the statement of claim and denied the contentions of Written Statement which are contrary to their claim.

8. The issues are framed at Exhibit-8. The issues and my findings thereon are as follows :

Issues	Findings
1. Whether the Tribunal had jurisdiction to entertain and decide the reference ?	No.

2. Whether the action of the management of Telecom Factories, Mumbai in not revising the pay scale of Rs. 260—400 to Assistant Halwai from Nagpur Cook, Clerk working in their canteen in Mumbai is legal and justified ? Does not survive if survives legal and justified.

3. If not, to what relief the concerned workmen is entitled survive

REASONS

9. The issue of jurisdiction has to be seen by the Tribunal. It is not necessary that the adverse party should raise the issue then only the Tribunal can embark upon it. It is general contention that in view of the case, Sub-Divisional Inspector of Posts Vs. Theyyam Joseph 1996 II Supreme 487, the telecommunication is not an industry and this Tribunal has no jurisdiction to decide the matter.

10. In Joseph's case Their Lordships observed 'India is a sovereign, socialist, secular democratic republic has to establish an egalitarian social order under rule of law. The welfare measures pertain the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the state. Directive principles of state policy enjoin the state diverse duties under IV of the constitution functions. One of the duties is of the state, to provide telecommunication service to the general public as an amenity and so is the essential part of sovereign functions of the state, as a welfare state, it is not therefore an industry.'

11. The Learned advocate for the workman placed reliance on various authorities and tried to submit that Mahanagar Telephone Nigam Limited is an industry. According to him in State of Bombay and Ors. Vs. Hospital Mazdoor Sabha and Ors. 1960 ILLJ 251 it is observed, it is the character of the activity which decide the question as to whether the activity in question attracts the provisions of 2(j) of the Act. It is further observed who conducts the activity and whether it is conducted for profit or do not make a material difference. Their Lordships also referred to Schedule I to the Act which innumrated Industries which may be declared as public utility service under section 2(N) of the Act.

12. In Corporation City Nagpur and its employees 1960 I LLJ 523 Their Lordships considered the scope of the definition industry. It is observed that however wide the definition of industry might be it could not include the legal or sovereign function of the state viz. the primary and inalienable functions of a consti-

tutional government which should be confined to administration of justice, maintenance of law and other legislative functions.

13. In the management of Satgung Hospital and Kuldeep Singh Sethi 1970 II LLJ 266, Their Lordships while considering whether Hospital run by Government or a local authority or by charitable institutions not as economic activity as an industry held that they are not governed by the definition of Industry in section 2(j) of the Act. In paragraph 14 and 15, Their Lordships discussed the point regarding material services. It is observed that material services are not services which depend wholly or largely upon the contribution of professional knowledge, skill or dexterity for the production of the result. Such a service given individually by individual are service no doubt but not material services. These services involve inactivity carried on through cooperation between employers and employees to provide a community with a use of something such as electric power, water, transportation, mail delivery telephones and the like.

14. Then comes the Bangalore Water Supply and Sewerage Board etc. and A. Rajappa & Ors. 1978 I LLJ 349. The Constitutional Bench of seven Judges discussed various aspects; namely what is industry and laid down different tests for coming to conclusion where a particular activity is an industry or not. The Learned Advocate for the workman more particularly placed reliance on paragraph 46 and 47 of the Judgment. He also referred to paragraph 131 of the Judgment. It is observed therein that what is the dominant nature test. It is stated that sovereign functions strictly understood alone qualified for exception not the welfare activities or economic adventures undertaken by Government as statutory bodies.

15. In Dahir Gram Panchat and Shri Brahad Saurashtra Safai Kamgar Mandal Rajkot 1971 I LLJ 508, wherein it is held that the conservancy and the sanitary activity carried on by panchayat would be covered by the definition of the word industry. Such activity being material service and a public utility service, the workers are the workmen as defined in section 2(j) of the Act.

16. In another case between Umanvann and State of Kerala 1983 I LLJ 267. Their Lordship have given a test for determining which establishments in an industry are an industry or not. The reference was regarding clerk, typists, Khalasis. While deciding it. Their Lordships observed sovereign functions strictly understood alone qualify for exemptions not the other activities or economic adventure taken by Government or Statutory bodies. In another case Bilov Kumar Barathi & Ors. Vs. State of Bihar I LLJ 214, Their Lordships observed that the mere fact that there is a service code does not amount to necessary implication to the exclusion of the provision of the Industrial Disputes Act to Government department. If there were rules, for instance especially dealing with the manner in which temporary appointment could be terminated it could legitimately be argued that section 25-F is excluded. For them the rules framed under the Constitutional provisions would have precedence over the

Act. It is not possible to accept the contention that the provisions of the Act do not apply to Government servants.

17. In Union of India Vs. Presiding Officer Vs. Central Government Industrial Tribunal, Jabalpur, FGR 1994 page 231. Their Lordships observed that the Central Ordinance Department is a severable unit of the defence department of the Central Government and carried on systematic activity with the cooperation of the employees and the employers and is in industry as defined in section 2(j) of the Industrial Disputes Act of 1947.

18. In Writ Petition Nos. 1584 of 1981, 8721 of 1981 and 3122 of 1981 the Nagpur Bench of the High Court of Bombay held that telegraph department is an industry under section 2(j) of the Industrial Disputes Act. In K.R.P. Kaimal and Anr. and Director of Postal services, Trivandrum 1979 I LLJ 176, it is observed by their Lordships public utility services like the postal services comes under industry, such activity cannot be called as a sovereign functions solely because rules framed under articles 309 and 310 governs such an employee. In another case between Bhaskaran and Sub-Divisional Officer 1982 II LLJ 248 it is observed that post and telegraph and Telephone services are named public utility services under the Act. They are industries to which the provisions of section 10, 12 and 22 of the Act directly apply.

19. In Delhi Science Forum Vs. The Union of India (1996) 2 Supreme Court case 405 wherein their Lordships considered section 4 of the Telegraphic Act, 1885 which speaks of granting of a licence to non-government companies. That right flows from the sub section 1 of section 4 which vests that privilege and right in the Central Government.

20. On the basis of the principles laid down in the above authorities it is tried to argue that Telecommunication is an industry. It cannot be termed as a sovereign function of state. It is Government undertaking. It works for profits for all these reasons it clearly meets out the requirement of an industry under section 2(j) of the Act and is an industry.

21. The Learned Advocate for the management argued that this Tribunal in an earlier reference No. 2/26/91 came to the conclusion on the basis of the Joseph's case that Telecommunication is not an industry. Judicial discipline wants that unless there is verdict from the superior court or that there is sufficient evidence on the record for changing the earlier views the Tribunal should not change its views. This proposition is acceptable. Further more, if it is found by the Tribunal that a view taken by it is incorrect. There in that case it cannot be said that it should commit the same mistake in latter Judgments/Awards. It can very well correct himself as laid down in Mafatlala Engineering Industries Ltd. Vs. Mafatlala Engineering Employees Union and Ors. 1992 I CLR 418. The Award of this Tribunal was challenged in SLP Bombay Telephone Canteen employees case. It was confirmed.

22. The Learned Advocate for the workman argued that the Bangalore Water Works was delivered by a Constitution Bench of Seven Judges. The view expressed in Joseph's case and later on in Bombay Telephones case is of a smaller bench of the same court. In view of Article 141 of the Constitution the decision given in those cases is *per incurrium*". The Tribunal has to ignore it. In Bombay Telephones case their Lordships had considered many of the authorities which were cited before me. The ratio therein cannot be said to be *'per incurrium'*.

23. The Learned Advocate for the workman placed reliance on Union of India and Ors. Vs. Godfrey Philips India Ltd. (1985) 4 S.C. cases 369 and Punjab Land Development and Reclamation Corporation Ltd., Chandigarh Vs. Presiding Officer Labour Court, Chandigarh (1990) 3 S. C. 682. These cases deals with the law that the principles laid down by larger bench are to be followed in relation to smaller bench, nobody disputes it.

24. The Supreme Court considered their views expressed in Joseph's case in Bombay Telephone Canteen Employees Association, Prabhadevi Telephone Exchange Vs. Union of India and Anr. 1997 11 CLR 218. Their Lordships considered the Bangalore Water works, Hospital Mazdoor Sabha, Corporation of City of Nagpur Rajasthan State Electricity Board and many other. They also considered the case of Physical Research Laboratory Vs. K. G. Sharma J.T. 1997 (4) S.C. 527 and came to the conclusion that departmental canteen of Telephone is not an industry. It is observed that the employees working in a statutory canteen in view of respondents admission are holding civil posts and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate a dispute on a reference under section 10(1) of Industrial Disputes Act.

25. In the above said authority their Lordships further observed that the employee gets a remedy under the Act by way of reference and remedy of a judicial redresser by way of proceedings under Article 226 or a petition filed before the Administrative Tribunal. They are co-existing. The court would therefore strike a balance between the competing rights of the individual and the state agency or instrumentality and decide the validity of the action taken by the management. Necessarily if the service conditions stand attracted all the conditions laid therein would become applicable to the employees with a fixity of tenure and guarantee of service subject to disciplinary action. His removal should be in accordance with the just and fair procedure envisaged under the rules or application of the Principles of Natural Justice as the case may be in which event the security of the tenure of the employees is assured and the whim and the fancy vagary of the employer would be deterred and if unfair and unjust action is found established it would be declared as an arbitrary, unjust or unfair procedure. On the other hand if the finding is that there exists no statutory rule or certified standing order exists or obey are not either made in applicable. The remedy of the reference under section 10 of the Act

would be always be available and avail of as it is an industry and indicia lead in Bangalore Water Supply Board case gets attracted.

26. In Himanshu Kumar Vidyarthi and Ors. Vs. State of Bihar and Ors. 1997 S. C. cases (L&S) 1079. Their Lordships observed every department of Government cannot be treated to be an industry. When the appointments are regulated by the statutory rules the concept of industry to that extent stand excluded. In that case the petitioners were not appointed to the posts in accordance with the rules but were engaged on the basis of need of the work. They are temporary employees working on daily wages. They are disengagement from service, cannot be construed to be a retrenchment under the Industrial Disputes Act. The concept of retrenchment therefore cannot be stretched to such an extent as to cover these employees since they are only daily wage employees and have no right to the post, their disengagement is not arbitrary. Relying on the ratio given in this authority it is tried to submit that the workman who is a casual labourer have no right for the employment. The other facts are different than the facts before me.

27. The ratio laid down from the above said authorities is that if the employees hold a civil posts and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate the dispute on a reference under section 10(1) of the Act.

28. In the statement of claim in paragraph-1 itself it is mentioned that the employees therein are government employees w.e.f. 4-11-1981. This position is ascertained by the management in the written statement. Prabhu (Ex.-11) the Vice President did not dispute it, but on the contrary in para-24 states that the certified standing orders framed under the Industrial employment (Sanding Orders Act, 1946) are applicable to the workers of the Telcom India Committee. Under such circumstances it has to be said that these employees are holding civil posts. As this is so the Tribunal had no jurisdiction to decide the reference under Industrial Disputes Act of 1947. In view of the principles laid down in the above said authority.

29. Prabhu had passed his claim on the basis of the circular dated 26-9-1984 Annexure 'A'. After perusal of this circular it can be seen that it deals with the recruitment of employees working in departmental canteen and telephone rules in departmental posts, instructions recruiting. It does not deals with any grant of pay to a particular post. It is rightly argued on behalf of the management that the claim which is based is on the wrong footing.

30. Employees of the canteen were initially recruited by the canteen managing committee and were paid in accordance with the scale prescribed by the canteen managing committee. It was taken over by the Government w.e.f. 4-11-1981. They were converted as departmental employees w.e.f. 4-11-1981 by the Government. By the order dated 7-10-1983 the Department of Telecommunication issued separate orders prescribing the scale of pay

of the employees which is at Exhibit-'B'. Those canteen employees were appointed in different cadres w.e.f. 4-11-1981 and different appointment orders were issued to them. That appointment orders specified the pay scale which they are entitled to draw. The pay prescribed by the Ministry of Communication comprised Telegraph Board New Delhi has been granted to them. Kadam asserts that the pay scale which is demanded by the employees is not granted by the Government. The entire canteen staff has been divided into three categories on the basis of the pay range for permitting them to appear for the departmental examination for higher posts for promotional avenues. That letter also prescribes other eligibilities. From the cross-examination of Kadam nothing has come on the record to show that these employees are entitled to pay scales which they claimed.

31. It is rightly argued on behalf of the management that the pay scales are prescribed by the pay commissioners. It is not the function of the courts or the Tribunals. The pay scales which is given to these employees is revised one. For all these reasons I record my findings on the issues accordingly and pass the following order :

ORDER

The Tribunal has no Jurisdiction to decide the Reference.

Sd./-

S. B. PANSE, Presiding Officer.

नई दिल्ली, 21 अक्टूबर, 1997

का०आ० 2865.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सब डिविजनल ऑफिसर (टी०), गाजीपुर के प्रबन्ध-तंत्र के संबन्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-10-97 को प्राप्त हुआ था।

[सं० एल-40012/43/93-आई०आर० (डी०यू०)]

के०वी० डण्णी, डैस्क अधिकारी

New Delhi, the 21st October, 1997

S.O. 2865.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sub-Divisional Officer (T), Gazipur and their workman, which was received by the Central Government on the 21-10-1997.

[No. L-40012/43/93-IR (DU)]

K. V. B. UNNY, Dssk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
DEOKI PALACE PANDU NAGAR
KANPUR

Industrial Dispute No. 23 of 1996

In the matter of dispute between :
Mohd. Islam S/o Abdul Mazeed.
Moh. Gora Bazar,
Gazipur.

AND

S. D. O. (T).
Peer Nagar,
Gazipur.

APPEARANCE :

Km. Neeta Mathur for the workman
None for the management.

AWARD

1. Central Government Ministry of Labour New Delhi vide its, notification No. L-40012/43/93-IR (DU) dated 21-7-93 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of BDO (T), Gazipur in terminating the services of Sh. Mohd. Islam, S/o Shri Abdul Mazid casual Motor Vehicle Driver w.e.f. 1-2-88 is justified? If not, what relief the workman concerned is entitled to?

2. The case of the concerned workman Mohd. Islam is that he was engaged as Motor Vehicle Driver by the opposite party Telecom Divisional Engineer on 1-8-86 and continued to work upto 30-6-87 for a period of 318 days. There after he worked from October, 1987 to January, 1988 for 115 days. He was removed from service from Feb. 1988. This removal is bad being in breach of provision of Section 25F, G and H I.D. Act.

3. The opposite party has filed reply in which it has been alleged that the concerned workman had worked from 1986 to 31-12-1986 for 143 days. He worked from 1-1-87 to Dec. 1987 for more than 240 days. There after he worked upto January, 1988.

From the above it will be evident that the management had not denied that the concerned workman had completed more than 240 days in a year before his termination.

4. In the rejoinder nothing new has been alleged.

5. In support of his case the concerned workman has filed ten documents. Further he has adduce his evidence. Management has not adduce his evidence in spite of repeated opportunities.

6. Apart from the fact that in the written statement the fact that the concerned workman had completed 240 days in year, has not been denied by the management, there is also un rebutted evidence by Mohd. Islam WW(1) to prove that he had completed 240 days in a year before termination. He has also stated that no retrenchment compensation and notice pay was given. Hence it is held that termination of the concerned workman is bad being in breach of provision of Section 25 F I.D. Act.

7. Accordingly my award is that the concerned workman will be entitled for reinstatement but without back wages.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 31 अक्टूबर, 1997

कां० 2866 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार महानगर टेलीफोन निगम लिमिटेड, मुम्बई, के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं० 2, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-10-97 को प्राप्त हुआ था।

[सं० एल-40012/222/94-आई०आर०(बी०यू०)]

बी० के०बी० उणी, डेस्क अधिकारी

New Delhi, the 21st October, 1997

S.O. 2866.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mahanagar Telephone Nigam Ltd., Mumbai and their workman, which was received by the Central Government on 21-10-97.

[No. L-40012/222/94-IR(DU)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.11, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer

Reference No. CGIT-2/5 of 1996

Employers in relation to the management of
M.T.N.L.

AND

Their Workmen

APPEARANCES :

For the Management—Mr. V. S. Masurkar,
Advocate

For the Workmen—Mr. N. Y. Lokhande,
Advocate

Mumbai, the 15th September, 1997

AWARD

The Government of India, Ministry of Labour by its Order No. L-40012/222/94-IR(DU), dated 27/28-12-95, had referred to the following Industrial Dispute for adjudication :

“Whether the action of management of M.T.N.L., Bombay, in terminating the services of Shri Chandrakant Ranoji Tate w.e.f. 1-3-1987 is justified? If not, to what relief the workman is entitled to?”

2. Chandrakant Ranoji Tate, the worker was appointed as a casual labourer under (Regional Maintenance Centre), Mahanagar Telephone Nigam Ltd. on 1-7-85. He continued to work till 28-2-87. It is averred that he did not abandon the service but on 1st March, 1987 his services were terminated. He approached the management on several occasions requesting them to re-employ him. But it was without any effect. He therefore approached the Assistant Labour Commissioner for redress.

3. The worker pleaded that while terminating his services the management did not comply with the provisions of the Industrial Disputes Act of 1947. He was not given notice nor the wages for the notice period. He prayed for reinstatement in service with continuity alongwith back wages and other consequential benefits.

4. The management resisted the claim by the Written Statement Exhibit-4. It is averred that the Tribunal has no jurisdiction as the Central Administrative Tribunal is established to solve such a type of dispute. It is pleaded that the claim is belated. On this ground alone it has to be dismissed. It is pleaded that in view of the Supreme Court Judgment, different Judgments of the superior

Courts the department formulated a scheme for regularisation and absorption of casual labourers. As per the schemes the casual labourer was not to be appointed after 30-3-85. It is submitted that the workers case does not fall under the scheme and as such he is not entitled to regularisation. It is denied that he was not given any notice or pay or any legal compensation as per the Industrial Disputes Act of 1947. It is averred that the appointment of the worker was not by Chief General Manager but by the Junior Engineer. It is submitted that the worker is not entitled to any of the reliefs, as claimed.

5. The worker filed a rejoinder at Ex.-6, and reiterated the contentions taken by him in the statement of claim (Ex.-4) and denied the contentions of the management in the written statement.

6. The issues are framed at Exhibit-8. The issues and my findings there on are as follows :

Issues	Findings
1. Whether the Tribunal has jurisdiction to entertain and decide the Reference ?	Yes.
2. Whether the workman is entitled to the different schemes issued by the department ?	No.
3. Whether the action of the management of Mahanagar Telephone Nigam Limited in terminating the services of Shri Chandrakant Ranoji Tate w.e.f. 1-3-87 is justified ?	No.
4. If not, what relief the workman is entitled to ?	As per orders.

REASONS

7. Chandrakant R. Tate (Ex.-9) the worker affirmed as per the his claim and relied upon the documents filed alongwith the statement of claim. As against this V. K. Matkar (Ex.-13) sub-divisional Engineer (M.T.N.L.) Sion Telephone Exchange lead evidence on behalf of the management.

8. The issue of jurisdiction has to be seen by the Tribunal. It is not necessary that the adverse party should raise the issue then only the Tribunal can embark upon it. It is general contention that in view of the case, Sub-Divisional Inspector, Posts Vs. Theyyam Joseph 1996 II Supreme Court 487, the telecommunication is not an Industry and this Tribunal has no jurisdiction to decide the matter. 2755 GI97—14,

9. In Josepn's case Their Lordships observed "India is a sovereign, socialist, secular, democratic republic has to establish an egalitarian social order under the rule of law. The welfare measures pertain the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the state. Directive Principles of state policy enjoying in the state diverse duties under IV of the Constitution and performance of the duties are constitutional functions. One of the duties is of the state, to provide telecommunication service to the general public as an amenity and so is the essential part of sovereign functions of the state, as a welfare state. it is not, therefore, an industry.

10. The Learned Advocate for the workman placed reliance on various authorities and tried to submit that M.T.N.L. is an Industry. According to him in State of Bombay and Ors. Vs. Hospital Mazdoor Sabha & Ors. 1960 I LLJ 251 it is observed it is the character of the activity which decides the question as to whether the activity in question attracts the provisions of 2(j) of the Act. It is further observed who conducts the activity and whether it is conducted for profit or not do not make a material difference. Their Lordships also referred to Schedule-I to the Act which innumrated Industries which may be declared as public utility service under Section 2N of the Act.

11. In Corporation City Nagpur and its employees 1960 I LLJ 523 Their Lordships considered the scope of the definition industry. It is observed that however wide the definition of industry might be it could not include the legal or sovereign functions of the state namely the primary and inalienable functions of a constitutional Government which should be confined to administration of justice, maintenance of law and other legislative functions.

12. In the management of Safdurjung Hospital, and Kuldeep Singh Sethi 1970 II LLJ 266, Their Lordships while considering whether Hospital run by Government or a local authority or by charitable institutions not as economic activities are industries held that they are not governed by the definition of Industry in Section 2(j) of the Act. In paragraphs 14 and 15 Their Lordships discussed the point regarding material services. It is observed that material services are not services which depend wholly or largely upon the contribution of professional knowledge skill or dexterity for the production of the result. Such a service given individually and by individual are services no doubt but not material services. These services involve any activity carried on through co-operation between employers and employee to provide a community with a use of something such as electric power, water, transporation, mail delivery telephones and the like.

13. Then comes the Bangalore Water Supply and Sewerage Board etc. and A. Rajappa & Ors. 1978 I LLJ 349. The Constitutional Bench of seven judges discussed various aspects namely what is industry and laid down different tests for coming to conclusion where a particular activity is an industry or not. The Learned advocate for the workman more particularly, placed reliance on paragraph 46 and 47 of the Judgment. It is observed there in that what is the dominant nature test. It is stated that sovereign functions strictly understood alone qualified for exception not the welfare activities or economic adventures undertaken by Government or statutory bodies.

14. In Dahri Gram Panchayat and Shri Brahad Saurashtra Safai Kamgar Mandal Rajkot 1971 I LLJ 508, wherein it is held that the conservancy and the sanitary activity carried on by panchayat would be covered by the definition of the word industry. Such an activity being a material service and a public utility service the workers are the workman as defined in section 2(j) of the Act.

15. In another case between Umanyam and State of Kerala 1983 I LLJ 267 Their Lordships have given a test for determining which establishments in an industry are an industry or not. The reference was regarding clerk, typists, Khalasis. While deciding it Their Lordships observed sovereign functions strictly understood alone qualify for exemptions not the other activities or economic adventure taken by Government or statutory bodies. In another case Bijoy Kumar Bharathi & Ors. Vs. State of Bihar I LLJ 214 Their Lordships observe that the mere fact that there is a service code does not amount by necessary implication to the exclusion of the provision of the Industrial Disputes Act to Government department. If there were rules, for instance specially dealing with the manner in which temporary appointments could be terminated it could legitimately be argued that section 25F is excluded. For them the rules framed under the constitutional provisions would have precedence over the Act. It is not possible to accept the contention that the provisions of the Act do not at all apply to Government servants.

16. In Union of India Vs. Presiding Officer, Central Government Industrial Tribunal, Jabalpur FGR 1994 page 231 Their Lordships observed that the Central Ordnance Department is a severable unit of the defence department of the Central Government and carried on systematic activity with the co-operation of the employees and the employers and is an industry as defined in section 2(j) of the Industrial Disputes Act of 1947.

17. In Writ Petition Nos. 1584 of 1981, 8721 of 1981 and 3122 of 1981 the Nagpur Bench of the High Court of Bombay, held that telegraph department is an industry under section 2(j) of the Industrial Disputes Act. In K. R. P. Kaimal and Anr. and Director of postal services, Trivan-

drum 1979 I LLJ 176, it is observed by Their Lordships public utility services like the postal services comes under industry, such activity cannot be called as a sovereign functions solely because rules framed under articles 309 and 310 governs such an employee. In another case between Bhaskaran and Sub-Divisional Officer 1982 II LLJ 248 it is observed that post and telegraph and telephone services are named public utility services under the Act. They are industries to which the provisions of section 10, 12 and 22 of the Act directly apply.

18. In Delhi Science Forum Vs. The Union of India (1996) 2 Supreme Court cases 405 wherein Their Lordships considered section 4 of the Telegraphic Act 1885 which speaks of granting of a licence to non government companies. That right flows from the sub-section 1 of section 4 which vests that privilege and right in the Central Government.

19. On the basis of the principles laid down in the above said authorities it is tried to argue that Telecommunication is an industry. It cannot be termed as a sovereign function of the state. It is Government undertaking. It works for profits for all these reasons it clearly meets out the requirement of an industry under section 2(j) of the Act and is an industry.

20. The Learned Advocate for the management argued that this Tribunal in an earlier Reference No. 2/26/91 came to the conclusion, on the basis of the Joseph's case that Telecommunication is not an industry. Judicial discipline wants that unless there is verdict from the superior court or that there is sufficient evidence on the record for changing the earlier views the Tribunal should not change its views. This proposition is acceptable. Further more, if it is found by the Tribunal that a view taken by it is incorrect. There in that case it cannot be said that it should commit the same mistake in later Judgments/Awards. It can very well correct himself as laid down in Mafatlal Engineering Industries Ltd. Vs. Mafatlal Engineering Employees Union and Ors. 1992 I CLR 418. The Award of this Tribunal was challenged in SLP in Bombay Telephone Canteen employees case. It was confirmed.

21. The Learned Advocate for the workman argued that the Bangalore Water Works was delivered by a Constitution Bench of seven Judges. The view expressed in Joseph's case and later on in Bombay Telephones case is of a smaller bench of the same court. In view of Article 141 of the Constitution the decision given in those cases is 'per incurrium' the Tribunal has to ignore it. In Bombay Telephones case Their Lordships had considered many of the authorities which were cited before me. The ratio therein cannot be said to be 'per incurrium'.

22. The Learned Advocate for the workman placed reliance on Union of India and Ors. Vs. Godfrey Philips India Ltd. (1985) 4 S.C. cases

369 and Punjab Land Development and Reclamation Corporation Ltd. Chandigarh Vs. Presiding Officer Labour Court Chandigarh (1990) 3 S.C. 682. These cases deal with the law that the principles laid down by larger bench are to be followed in relation to smaller bench, nobody disputes it.

23. The Supreme Court considered their views expressed in Joseph's case in Bombay Telephone Canteen Employees Association, Prabhadevi Telephone exchange Vs. Union of India and Anr. 1997 II CLR 218. Their Lordships considered the Bangalore water works, Hospital Mazdoor Sabha, Corporation of City of Nagpur, Rajasthan State Electricity Board and many other. They also considered the case of Physical Research Laboratory Vs. K. G. Sharma J.T. 1997 (4) S.C. 527 and came to the conclusion that departmental canteen of Telephone is not an industry. It is observed that the employees working in a statutory canteen in view of respondents' admission are holding civil posts and are being paid monthly salary and are employees. The necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate a dispute on a reference under section 10(1) of the Industrial Disputes Act.

24. In the above said authority their Lordships further observed that the employee gets a remedy under the Act by way of reference and remedy of a judicial redresser by way of proceedings under Article 226 of a petition filed before the Administrative Tribunal. They are co-existing. The court would therefore strike a balance between the competing rights of the individual and the state agency or instrumentality and decide the validity of the action taken by the management. Necessarily if the service conditions stand attracted all the conditions laid therein would become applicable to the employees with a fixity of tenure and guarantee of service subject to disciplinary action. His removal should be in accordance with the just and fair procedure envisaged under the rules or application of the Principles of Natural Justice as the case may be in which event the security of the tenure of the employee is assured and the whim and the fancy vagary of the employer would be deterred and if unfair and unjust action is found established it would be declared as an arbitrary, unjust or unfair procedure. On the other hand if the finding is that there exists no statutory rule or certified standing order exists or they are not either made in applicable. The remedy of the reference under section 10 of the Act would always be available and avail of as it is an industry and indicia lead in Bangalore Water Supply Board case gets attracted.

25. In Himanshu Kumar Vidyarthi and Ors. Vs. State of Bihar and Ors. 1997 S.C. cases (L & S) 1079 Their Lordships observed every department of Government cannot be treated to be an industry. When the appointments are regulated by the statutory rules the concept of industry or that extent

stands excluded. In that case the petitioners were not appointed to the posts in accordance with the rules but were engaged on the basis of need of the work. They are temporary employees working on daily wages. Their disengagement from service, cannot be construed to be a retrenchment under the Industrial Disputes Act. The concept of retrenchment therefore cannot be stretched to such an extent as to cover these employees since they are only daily wage employees and have no right to the post, their disengagement is not arbitrary. Relying on the ratio given in this authority it is tried to submit that the workmen who is a casual labourer have no right for the employment. The other facts are different than the facts before me.

26. The ratio laid down from the above said authorities is that if the employees hold a civil posts and are being paid monthly salary, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate the dispute on a reference under section 10(1) of the Act.

27. The worker is a casual labourer as shown in a certificate Exhibit-A issued by Assistant Engineer dated 27-12-93. There is no appointment letter. He appears to have engaged on the basis need to work. The recruitment is not like that of civil servants. There is no evidence to show that he was paid monthly. But he being a casual labourer it has to be presumed that he paid daily. There is no evidence that the worker was entitled to a particular pay scale. On the basis of the ratio in Bombay Telephone it has to be said that the worker does not hold a civil post. In the result the Tribunal can decide the reference under section 10(1) of the Act.

28. Chandrakant Ranoji Tate (Ex-9) affirmed that he was appointed as a casual labourer at R.M.C. from 1-7-85 and continued to work till 28-2-87. His service record is at Exhibit-A of the statement of claim. The working days are not disputed. In other words from March 1986 and February 1987 that is one year from the date reference to the calculations his working days comes to 352 days. Obviously he had to be said as a continuous worker as contemplated under section 25(B) of the Industrial Disputes Act.

29. It is not in dispute while terminating the service of Tate the worker who was not given one month's notice nor the charges for that period. Obviously his retrenchment is illegal for non following the provisions of section 25F of the Act.

30. Mathkar (Ex-13) affirmed that the labourers who were working up to 7-5-87 were absorbed in the service in the scheme of regulations and as the worker was recruited after that day he is not entitled to benefit of the scheme. There is no evidence to show that how he is entitled to the schemes to be absorbed in the department. Under such circum-

stances I accept the word of Mathkar to be correct. It is because the judicial notice of the fact can be taken that many workers who were casuals were absorbed by the department in view of the Supreme Court Judgment and the scheme formulated there under.

31. It is tried to submit that the claim is stale and therefore the worker is not entitled to any reliefs. No doubt after 1987 for the first time the worker approached to Assistant Labour Commissioner by giving a written complaint. He affirmed that he orally contacted the officers on several occasions to engage him. But it was of no use. It is tried to argue on behalf of the management if really he would have approached to the authorities he should have given a written complaint to the authorities. As he did not it has to be said that he did not complain to any officer. I am not inclined to accept it. It is a normally scene that these casual labourers are in search of the work. They only make representation orally to the officers thinking that one day or the other they will be oblige. No doubt there is a delay but the explanation given by Tate has to be accepted.

32. For the reasons stated it has to be said that the retrenchment of the worker is illegal and he is entitled to reinstatement with full back wages. In the result I record my findings on the points accordingly and pass the following order :

ORDER

The action of the management of Mahanagar Telephone Nigam Limited, Bombay in terminating the services of Shri Chandrakant Ranoji Tate w.e.f. 1-3-87 is not justified.

2. The management is directed to reinstate Chandrakant Ranoji Tate the worker as a casual labourer and pay him all his wages from the date of his termination till reinstatement.

S. B. PANSE, Presiding Officer

नई दिल्ली, 21 अक्टूबर, 1997

का०आ० 2867 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फॉरेस्ट रिसर्च इंस्टिट्यूट एण्ड कॉलेज, देहरादून प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-10-97 को प्राप्त हुआ था।

[सं. एल-42012/69/89--आई आर (डीयू)]
के.वी.बी. उन्नी डेस्क अधिकारी

New Delhi, the 21st October, 1997

S.O. 2867.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Forest Research Institute College, Dehradun and their workman, which was received by the Central Government on the 21-10-1997.

[No. L-42012/69/89-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

In the matter of dispute :

BETWEEN

Smt. Blomina Palmour,
W/o Alfrad Palmour,
Wing No. 7,
Barrack No. 13,
Quarter No. 6,
Prem Nagar,
Dehradun.

AND

Officer Incharge Medical,
New Forest Hospital,
Forest Research Institute and
College,
Dehradun.

Industrial Dispute No. 108 of 1990

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-42012/69/89/IR(DU) dated 29-3-90, has referred the following dispute for adjudication to this Tribunal—

Kya Forest Research Institute & College, Dehradun ke prabandhtantra dwara Smt. Blomina Palmour ko dinank 30-6-88 se naukari se nishkashit karna nyayochit hai? Yadi nahi to karmkar kis anutosh ka adhikari hai?

2. The case of the concerned worklady Smt. Blomina Palmour is that her name was sponsored from Employment Exchange for appointment of Staff Nurse in the Hospital of Opposite Party Forest Research Institute and College, Dehradun. She was selected and consequently joined on 19-12-86. However, she was kept as daily rated worker when others were regularised, she also

claimed for regularisation hence by order dated 30-6-88 she was illegally removed from service in breach of provisions of section 25FG and H of I.D. Act.

3. The opposite party has filed reply in which it has been alleged that opposite party is not an industry. In the second place it was alleged that the concerned worklady was engaged for fixed term. Further she was engaged to meet the exigency of work. In other words she was not engaged against any vacancy, hence question of termination being illegal does not arise.

4. In the rejoinder it has been denied that the concerned worklady was engaged for fixed period.

5. In support of her case the concerned worklady has examined herself as W.W. 1. Whereas Dr. Mitlesh Sinha has been examined as M.W. 1.

6. There is no letter in writing to show that the concerned worklady was appointed for any fixed period. In the absence of any such letter, I accept the version of the management that the concerned worklady was appointed for fixed period.

7. Any how the concerned worklady W.W. 1 herself has admitted that she was daily rated worker, she did not get any wages for holidays and other non working days. She did not get any medical or earned leave. Even no service book was opened in her name. On the other hand Dr. Mrs. Mitlesh Singh M.W. 1 has stated that the concerned worklady was engaged on allied works in the hospital. She was not appointed against any post. There is copy of letter dated 5-11-86 sent by medical officer of the opposite party regarding employment exchange officer to send the name for staff nurse as casual daily rated labour and it is on this basis that the name of the concerned worklady was given. From this letter alone coupled with the evidence of the concerned worklady it becomes clear that she was not engaged against any vacancy. Certainly the post of staff nurse is a Substantive Post in which appointment is made according to rules. In this way it becomes clear that the appointment of the concerned worklady was not against any Substantive Post Instead she was engaged as a casual daily labour.

8. In the case of Himanshu Kumar versus State of Bihar, 1997, Labour & Industrial Cases, 2075 (Supreme Court) it was pointed out that when a temporary engagement is made on daily wages and such appointment is not made against any post, question of applicability of provisions of Industrial Disputes Act, 1947, would not arise, in such cases.

9. In view of this authority of Hon'ble Supreme Court, the provisions of Industrial Disputes Act, in the instant case, would not apply to the concerned worklady. Consequently her so called termi-

nation cannot be questioned on the basis of breach of provisions of section 25F, G and H of I.D. Act.

10. Accordingly my award is that termination of the concerned worklady being in breach of provisions of section 25F G & H of I.D. Act is not bad. Consequently, she is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 20 अक्टूबर, 1997

का.आ. 2868 :—जबकि तत्कालीन श्रम और नियोजन मंत्रालय की अधिसूचना द्वारा (श्रम और नियोजन विभाग संख्या 1413 दिनांक 11 अप्रैल, 1967 और संख्या 1697 दिनांक 22 मई, 1965) गठित औद्योगिक अधिकरण एवं श्रम न्यायालय संख्या 2 धनबाद के पीठासीन अधिकारी के कार्यालय में एक रिक्ति हुई है।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के खंड के उपबन्धों के अनुसरण में केन्द्रीय सरकार इसके द्वारा 3 अक्टूबर, 1997 के पूर्वाह्न से श्री बी.बी. चटर्जी को उक्त औद्योगिक अधिकरण के पीठासीन अधिकारी के रूप में नियुक्त करती है।

[फाईल संख्या ए-11016/4/93-सी.एल.एस.-II]

पी.पी. मित्रा, निदेशक

New Delhi, the 20th October, 1997

S.O. 2868.—Whereas a vacancy has occurred in the Office of the Presiding Officer of the Industrial Tribunal-cum-Labour Court, No. 2, Dhanbad constituted by the Notifications of the Government of India in the then Ministry of Labour & Employment (Department of Labour and Employment) No. 1413, dated the 11th April, 1967 and No. 1697, dated the 22nd May, 1965.

Now, therefore, in pursuance of the provisions of Section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri B. B. Chatterjee, as the Presiding Officer of the said Industrial Tribunal-cum-Labour Court with effect from the forenoon of 3rd Oct., 1997.

[F. No. A-11016/4/93-CLS-II]

P. P. MITRA, Director

नई दिल्ली, 20 अक्टूबर, 1997

का. आ. 2869 :—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1 नवम्बर, 1997 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा-44 और 45 के सिवाय जो पहले

ही प्रवृत्त की जा चुकी है और अध्याय-5 और 6 [धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध आन्ध्रा प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

“जिला पश्चिम गोदावरी में सीमाधरम की नगरपालिका सीमाओ और राजस्व मंडल, ऊण्डी में राजस्व ग्राम, ऊण्डी और एन्. आर. पी. अग्रहरम और राजस्व मंडल, काला में राजस्व ग्राम, कोपाल और चीना अमीरम के अन्तर्गत आने वाले क्षेत्र”

[संख्या एस-38013/20/97-एस. एस.-I]

जे. पी. शुक्ला, अवसर सचिव

New Delhi, the 20th October, 1997

S.O. 2869.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st November, 1997 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely:—

“The areas falling within the Municipal limits of Bhimavaram and revenue villages of Undi and NRP Agraharam in Undi revenue Mandal and revenue Villages of Kopalle and China Ameeram in Kalla Mandal of West Godavari District.”

[No. S-38013/20/97-SS.I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 20 अक्टूबर, 1997

का. आ. 2870:—कर्मचारी राज्य बीमा अधिनियम, 1940 (1940 का 34) की धारा-1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 नवम्बर, 1997 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा-44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय-5 और 6 [धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध आन्ध्रा प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

“जिला नैलोर के चेंकटाचलम मंडल में राजस्व ग्राम चेमुदुगुन्टा, काकूतुर के अन्तर्गत आने वाले क्षेत्र”

[संख्या एस-38013/21/97-एस. एस.-I]

जे. पी. शुक्ला, अवसर सचिव

New Delhi, the 20th October, 1997

S.O. 2870.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st November, 1997 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely:—

“The area within the revenue villages of Chemudugunta, Kakutur in Venkatachalam Mandal of Nellore District.”

[No. S-38013/21/97-SS.I]

J. P. SHUKLA, Under Secy.

नई दिल्ली 21 अक्टूबर, 1997

का. आ. 2871:—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 नवम्बर, 1997 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा-44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय-5 और 6 [धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध आन्ध्रा प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

“जिला कुड्डापाह के राजस्व मंडल चिन्ता कोमा डिने में राजस्व ग्राम थाडीगोटला और कोपारथी के अन्तर्गत आने वाले क्षेत्र”

[संख्या एस-38013/22/97-एस. एस.-I]

जे. पी. शुक्ला, अवसर सचिव

New Delhi, the 21st October, 1997

S.O. 2871.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948

(34 of 1948) the Central Government hereby appoints the 1st November, 1997 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

“The areas within the revenue villages of Thadigotla and Kopparthi in Chinta Kamma dinne revenue mandal of Cuddapah District.”

[No. S-38013/22/97-SS.I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 21 अक्टूबर, 1997

का. आ. 2872.—केन्द्रीय सरकार का यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित है, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ण) की उपधारा (vi) के अन्तर्गत भारत सरकार के श्रम मंत्रालय की तारीख 24 अप्रैल, 1997 की अधिसूचना संख्या 1210 के तहत दिल्ली दुग्ध योजना के अधीन दुग्ध आपूर्ति उद्योग को उक्त अधिनियम के प्रयोजनार्थ 24 अप्रैल, 1997 से छह माह की कालावधि के लिए लोकोपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त अवधि को और छह माह के लिए बढ़ाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ण) की उपधारा (vi) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार

उक्त उद्योग को उक्त अधिनियम के प्रयोजनार्थ 24 अक्टूबर, 1997 से छह माह की कालावधि के लिए लोकोपयोगी सेवा घोषित करती है।

[संख्या एस-11017/7/97-आई०आर० (पी०एल०)]

एच०सी० गुप्ता, अवर सचिव

New Delhi, the 21st October, 1997

S.O. 2872.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Dispute Act, 1947 (14 of 1947) declared by the notification of the Government of India in the Ministry of Labour S.O. No. 1210, dated 24th April, 1997 the industry for the supply of milk under the Delhi Milk Scheme to be a public utility service for the purpose of the said Act, for a period of six months from the 24th April, 1997;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 24th October, 1997.

[No. S-11017/7/97-IR(PL)]

H. C. GUPTA, Under Secy.

